

Office-Supreme Court, U.S.

FILED

DEC 22 1983

ALEXANDER L. STEVAS,

No. 83-317

IN THE

# Supreme Court of the United States

October Term, 1983

SHERMAN BLOCK,

*Petitioners,*

vs.

DENNIS RUTHERFORD,

*Respondents.*

## ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT.

### JOINT APPENDIX.

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PETITION FOR CERTIORARI FILED August 23, 1983  
CERTIORARI GRANTED November 7, 1983

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| 1.  |             |              | Relevant Docket Entries<br>in Courts Below                          | JA-1             |
| 2.  | 5/14/76     | USDC         | Plaintiff's Second<br>Amended Complaint                             | JA-10            |
| 3.  | 7/6/76      | USDC         | Defendants Answer to<br>Second Amended<br>Complaint                 | JA-34            |
| 4.  | 6/27/77     | USDC         | Pretrial Conference<br>Order  | JA-51            |
| 5.  | 7/25/77     | USDC         | Stipulation   | JA-91            |
| The following documents (except item no.<br>11, which is contained herein) have been<br>reproduced in the petition for certiorari, and are<br>not reproduced herein. Location references are<br>to the Petition for Certiorari Appendix ("PA"). |             |              |   |                  |
| 6.  | 7/25/78     | USDC         | Reported Memorandum<br>Opinion, 457 F.Supp.<br>104 (C.D. Cal. 1978) | PA-41            |
| 7.  | 2/15/79     | USDC         | Unreported<br>Supplemental<br>Memorandum Opinion                    | PA-29            |
| 8.  | 2/15/79     | USDC         | Judgment  | PA-37            |
| 9.  | 8/8/80      | USCA         | Unreported Opinion  | PA-17            |
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| 12.   | 7/14/81     | USCA         | Opinion   | PA-1             |

\*"JA" references are to the Joint Appendix.

### **Relevant Docket Entries.**

| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 12/9/75     | USDC         | Complaint filed.   |
| 3/23/76     | USDC         | Order certifying class action and requiring distribution of notice to class filed.   |
| 5/14/76     | USDC         | Second amended complaint filed.  |
| 7/6/76      | USDC         | Defendants' answer to second amended complaint filed.  |
| 2/1/77      | USDC         | Plaintiffs' motion for partial summary judgment/preliminary injunction and affidavits in support filed.  |
| 2/23/77     | USDC         | Plaintiffs' amended motion for partial summary judgment preliminary injunction filed.  |
| 2/25/77     | USDC         | Defendants' affidavits in opposition to motion for preliminary injunction/summary judgment filed.  |
| 3/14/77     | USDC         | Order denying plaintiffs' motion for partial summary judgment/preliminary injunction filed.  |
| 6/27/77     | USDC         | Pretrial conference order filed.   |
| 7/25/77     | USDC         | Stipulation and order that affidavits submitted at the hearing on the preliminary injunction may be admitted into evidence as the direct testimony of the affiant in lieu of direct testimony. |
| 8/2/77      | USDC         | Court trial (1st day).   |
| 8/3/77      | USDC         | Court trial (2d day).  |
| 8/4/77      | USDC         | Court trial (3rd day).   |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 8/5/77      | USDC         | Court trial (4th day).   |
| 8/10/77     | USDC         | Court trial (5th day).   |
| 8/11/77     | USDC         | Court trial (6th day).   |
| 8/12/77     | USDC         | Court trial (7th day).   |
| 8/23/77     | USDC         | Court trial (8th day).   |
| 8/30/77     | USDC         | Court trial (9th day).   |
| 8/31/77     | USDC         | Court trial (10th day).  |
| 9/1/77      | USDC         | Court trial (11th day).  |
| 9/2/77      | USDC         | Court trial (12th day).  |
| 9/13/77     | USDC         | Court trial (13th day).  |
| 9/15/77     | USDC         | Court trial (14th day).  |
| 9/21/77     | USDC         | Court trial (15th day).  |
| 9/22/77     | USDC         | Court trial (16th day).  |
| 9/23/77     | USDC         | Court trial (17th day). Court orders post trial briefing.  |
| 10/31/77    | USDC         | Plaintiffs' post trial brief and appendix thereto filed.   |
| 12/5/77     | USDC         | Defendants' post trial brief and attachments thereto filed.  |
| 12/15/77    | USDC         | Plaintiffs' post trial brief and appendix thereto filed.   |
| 7/25/78     | USDC         | Memorandum of decision filed; judgment held pending hearing schedule for 8/14/78.  |
| 8/14/78     | USDC         | Final judgment filed; court orders matter continued to 8/28/78 for further proceedings.  |
| 8/23/78     | USDC         | Defendants' motion to modify judgment filed; defendants' return to courts memorandum decision and summary of progress towards implementation filed; defendants' motion for reconsideration or a stay pending appeal on certain issues filed. |



| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 8/28/78     | USDC         | Hearing on defendants' motion for reconsideration/and to stay proceedings pending appeal. Court orders a stay pending appeal re: contact visits/window replacement; orders matter set for further hearing on 10/17/78. |
| 10/11/78    | USDC         | Defendants' statement of reasons for non-compliance with certain provisions of courts memorandum decision filed.   |
| 10/13/78    | USDC         | Court trial, further evidentiary hearing or issue of jail procedures.  |
| 11/8/78     | USDC         | Court trial, further evidentiary hearing on contact visits, etc.   |
| 11/9/78     | USDC         | Court trial, further evidentiary hearing.  |
| 11/10/78    | USDC         | Court trial, further evidentiary hearing. Post trial briefing schedule ordered.  |
| 11/27/78    | USDC         | Defendants' opening brief on contact visits, search procedures filed.  |
| 12/11/78    | USDC         | Plaintiffs' reply brief and attachments re: contact visits search procedures filed.  |
| 12/13/78    | USDC         | Defendants' supplemental brief re: contact visits, searches filed.   |
| 12/20/78    | USDC         | Defendants' reply brief re: contact visitation; cell searches filed.   |
| 12/21/78    | USDC         | Plaintiffs' declaration in response to defendants' supplemental brief re: contact visits, searches filed.  |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 1/18/79     | USDC         | Court's memorandum to counsel re: further hearing filed.   |
| 1/29/79     | USDC         | Defendants' motion for suspension of portions of injunction pending appeal filed.  |
| 2/5/79      | USDC         | Minute order granting defendants' motion to suspend portions of injunction pending appeal; defendants' ordered to submit order modifying courts' order.  |
| 12/15/79    | USDC         | Supplemental memorandum of decision, judgment filed. Court orders stay of paragraphs (2)(b), 5 suspended per FRCP 62(e) on certain conditions; request for stay of provisions of paragraph 8 denied, except that provisions of paragraph 7 shall be suspended for 30 days to permit defendants to seek a further stay. |
| 2/16/79     | USDC         | Defendants' notice of appeal to USCA from 2/15/79 judgment filed (USCA docket no. 79-3061). Defendants' designation of record on appeal filed (USCA docket no. 79-3061)  |
| 3/15/79     | USDC         | Plaintiffs' designation of additional documents to be transmitted filed (USCA docket no. (USCA docket no. 79-3061)   |
| 3/19/79     | USDC         | Order staying provisions of paragraph 8 of district courts judgment re: cell searches pending further order of court. (USCA docket no. 79-3061)  |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 4/4/79      | USDC         | Order staying paragraph 8 of district court's judgment (USCA docket no. 79-3061)   |
| 4/30/79     | USDC         | Filed reporter's transcript of proceedings held on 8/2/77 Vol. 1, 8/3/77 Vol. 2, 8/4/77 Vol. 5, 8/11/77 Vol. 6, 8/12/77 Vol. 7, 8/23/77 Vol. 8, 8/30/77 Vol. 9, 8/31/77 Vol. 10, 9/1/77 Vol. 11, 9/2/77 Vol. 12, 9/13/77 Vol. 13, 9/14/77 Vol. 14, 9/21/77 Vol. 15, 9/22/77 Vol. 16, 9/23/77 Vol. 17, 9/28/78 Vol. 18, 10/13/78 Vol. 19, 11/8/78 Vol. 20, 11/9/78 Vol. 21, 11/10/78 Vol. 22, (USCA docket no. 79-3061) |
| 5/25/79     | USDC         | Judgment and order awarding plaintiffs' attorneys fees and costs.  |
| 6/22/79     | USDC         | Defendants' notice of appeal to USCA from judgment of 5/25/79. (USCA docket no. 79-3367)   |
| 7/5/79      | USDC         | Defendants' designation of reporter's transcript (USCA docket no. 79-3367).  |
| 10/24/79    | USDC         | Original of reporter's transcript of proceedings held on 4/23/79 filed (USCA docket no. 79-3367).  |
| 12/6/79     | USDC         | Defendants'/appellants' designation of clerk's records on appeal filed (USCA docket no. 79-3367).  |
| 1/8/80      | USDC         | Plaintiffs' designation of documents filed (USCA docket no. 79-3367)   |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>  |
|-------------|--------------|---|
| 8/8/80      | USCA         | Memorandum opinion re consolidated appeals from judgments of 2/15/79 and 5/25/79 (USCA docket nos. 79-3061 & 79-3367)                             |
| 9/4/80      | USDC         | Memorandum opinion of USCA (USCA docket nos. 79-3061 & 79-3367)   |
| 10/20/79    | USDC         | Mandate from USCA ordered filed and spread (USCA docket nos. 79-3061 & 79-3367)   |
| 4/22/81     | USDC         | Memorandum decision of USDC filed; order awarding plaintiffs attorneys' fees and costs filed.   |
| 4/23/81     | USDC         | Court's memorandum to counsel filed.  |
| 4/28/81     | USDC         | Defendants' notice of appeal from judgment of 4/22/81 filed. (USCA docket no. 81-5364)  |
| 5/18/81     | USDC         | Memorandum of decision and judgment reaffirming judgment entered 2/15/79 filed.   |
| 5/28/81     | USDC         | Order staying judgment of 5/18/81 filed.  |
| 5/29/81     | USDC         | Defendants' notice of appeal from judgment of 5/18/81 filed. Defendants' designation of reporters' transcript on appeal (USCA docket no. 81-5461) |
| 6/25/81     | USDC         | Judgment awarding plaintiffs attorneys' fees.   |
| 7/6/81      | USDC         | Defendants' notice of appeal from judgment of 6/25/81 and designation of reporters transcript filed. (USCA docket no. 81-5617)                    |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 8/7/81      | USDC         | Original reporter's transcript of proceeding held on 5/18/81 filed.  |
| 8/21/81     | USCA         | USCA order consolidating appeals in docket no. 81-5617 and 81-5364; permitting use of transcripts and excerpt from previous appeals, docket nos. 79-3061 and 79-3367, but excerpts are to be updated; appeal in docket no. 81-5461 to proceed independently. |
| 12/16/81    | USDC         | Court awards plaintiffs attorneys' fees.   |
| 1/21/82     | USDC         | Plaintiffs' notice of appeal from order of 12/16/81 filed. (USCA docket no. 82-5071)   |
| 1/22/82     | USDC         | Plaintiffs' designation of reporter's transcript filed (USCA docket no. 82-5071)   |
| 1/26/82     | USDC         | Original reporter's transcript of proceedings held on 2/24/81 filed.   |
| 2/12/82     | USDC         | Defendants' report re: compliance with court's order filed.  |
| 2/18/82     | USDC         | Original reporter's transcript of proceedings held on 11/23/81 filed.  |
| 5/15/82     | USDC         | Original reporter's transcript of proceedings held on 9/2/80, Vol. 1, 9/3/80 Vol. 2, 11/5/81 Vol. 3, 2/24/81 Vol. 4-A, 2/24/81 Vol. 4, 2/24/81 Vol. 4-B, 2/25/81 Vol. 5-A, 2/25/82 Vol. 5-B, 2/26/81 Vol. 6-A, 2/26/81 Vol. 6-B, filed.                      |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>  |
|-------------|--------------|---|
| 2/19/82     | USDC         | Original reporter's transcript for proceedings held on 5/14/81, 5/15/81, 5/18/81, and 5/22/81 filed.  |
| 6/3/82      | USDC         | Stipulation and order re record on appeal. USCA docket no. 82-5071 filed.   |
| 7/16/82     | USDC         | Plaintiffs' designation of record on appeal filed (USCA docket no. 82-5071)   |
| 8/5/82      | USDC         | Plaintiffs' designation of record on appeal filed. (USCA docket no. 82-5071)  |
| 9/31/82     | USDC         | Defendants' designation of record on appeal filed. (USCA docket no. 82-5071)  |
| 11/5/82     | USDC         | Clerk's record on appeal forwarded to USCA along with reporter's transcript of 9/2/80 Vol. 1, 9/3/80 Vol. 2, 11/5/80 Vol. 3, 2/24/81 Vol. 3, 2/24/81 Vol. 4A, 2/24/81 Vol. 4B, 2/25/81 Vol. 4B, 2/11/77 Vol. 5B, 2/26/81 Vol. 6, 2/26/81 Vol. 6A, 8/12/77 Vol. 6B, 8/23/77 Vol. 7, 8/30/77 Vol. 8, 8/31/77 Vol. 9, 9/1/77 Vol. 10, 9/2/77 Vol. 11, 9/13/77 Vol. 12, 9/14/77 Vol. 13, 9/21/77 Vol. 14, 9/22/77 Vol. 15, 9/23/77 Vol. 16, 8/28/78 Vol. 17, 8/29/78 Vol. 18, 11/8/78 Vol. 19, 11/9/78 Vol. 20, 11/10/79 Vol. 21, 5/14/81 Vol. 22, 5/14/81, 5/18/81, 5/22/81, 11/23/81, and 9/5/80. |

| <i>Date</i> | <i>Court</i> | <i>Entry</i>   |
|-------------|--------------|--|
| 7/14/83     | USCA         | Opinion of USCA (USCA docket no. 81-5461)            |
| 8/12/83     | USDC         | Opinion of USCA lodged.<br>(USCA docket no. 81-5461) |



**Second Amended Complaint for  
Declaratory and Injunctive Relief.**

United States District Court, Central District of California.

Dennis Rutherford, Harold Taylor, Richard Orr, Gregory Armstrong, Jack Jones and William Robles, on behalf of themselves and all others similarly situated, Plaintiffs, vs. Peter J. Pitchess, as Sheriff of the County of Los Angeles, William Anthony, as Assistant Sheriff of the County of Los Angeles, Walter Howell, as Chief of the Corrections Division of the Los Angeles County Sheriff's Department, James White, as Commander of the Los Angeles County Central Jail, Edward Edelman, Kenneth Hahn, James Hayes, Peter Schabarum and Baxter Ward, as Supervisors of the County of Los Angeles, Jack Holt, Jack E. Robbins, Ernest Zansler, John Johnson, as Los Angeles County Sheriff's Department Lieutenants assigned to the Los Angeles County Jail, James D. Austin, Leroy K. Johnson, Gerald Boswell, Jerry Exline, Richard Hendershot, James Cinderelli, David Betkey, Danny Calhoun, Robert Chrisman, Steven Crawford, Dan Dohner, John Fehrs, Steven Gayhart, Antonio Samaniego, Randall Sisk, Frederick Sykes, John Wargo and Frederick Weise, as Los Angeles County Sheriff's Department officers assigned to the Los Angeles County Central Jail, on behalf of themselves and all others similarly situated, Dr. Arman Toomajian, as Los Angeles County Sheriff's Department Medical Director, Drs. Patrick Lavelle, Donald Verin and Wetzal, as doctors employed by the Los Angeles County Sheriff's Department and assigned to the Central Jail, on behalf of themselves and all others similarly situated, and Messrs. Carnette, Davis and Taylor, as nurses employed by the Los Angeles County Sheriff's Department and assigned to the Central Jail, on behalf of themselves and all others similarly situated, Defendants. Case No. CV 75-4111-WPG.



Filed: May 14, 1976.

SECOND AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF.  
(Civil Rights Act).

*JURISDICTION*

1. This is a class action for a declaratory judgment that Plaintiffs' constitutional rights are being violated by the conditions of their confinement in the Los Angeles County Central Jail and for a permanent injunction preventing Defendants from continuing to violate sentenced and unsentenced prisoners' rights while acting under color or law.

2. Jurisdiction is conferred on this Court under 28 U.S.C. §1343 providing for jurisdiction over claims arising under 42 U.S.C. §1983 and §1985, and 28 U.S.C. §2201 and 2202 relating to declaratory judgments. The Court has pendent jurisdiction to adjudicate claims arising under California law.

*PARTIES*

3. Plaintiffs are residents of the United States and the County of Los Angeles, State of California and are incarcerated at the Los Angeles County Central Jail, (hereinafter referred to as the "Central Jail" or the "Jail"), located at 441 Bauchet Street, Los Angeles, California.

4. Plaintiffs Dennis Rutherford, Harold Taylor, Gregory Armstrong and Williams Robles are charged with offenses under the law of California and are awaiting trial in the Superior or Municipal Courts for the County of Los Angeles, State of California. In their criminal cases, bail has been set by a Judge of those courts. Due to their indigency, they have been unable to make bail and are incarcerated at the Jail solely to insure their appearance at trial and for no other reason. Plaintiff Rutherford was thus

incarcerated from November 5, 1972 to February 23, 1976; plaintiff Taylor has been thus incarcerated since December 17, 1973; plaintiff Armstrong has thus been incarcerated since October 5, 1975; and plaintiff Robles was thus incarcerated starting December 17, 1975. Said plaintiffs are presumed innocent and are incarcerated solely to insure their presence at trial.

7. Defendant Peter J. Pitchess is, and at all times herein relevant has been, the Sheriff of the County of Los Angeles, California, and keeper of the Jail pursuant to California Government Code Section 26505 and Penal Code Sections 4000 and 4005, and as such is charged with the duty of maintaining and operating the Central Jail and promulgating and enforcing rules for the governance and safekeeping of prisoners incarcerated at the Central Jail and for the supervision of Deputy Sheriffs in the Los Angeles County Sheriff's Department.

8. Defendant William Anthony is, and has been at all times herein relevant, an Assistant Sheriff in the Los Angeles County Sheriff's Department in charge of the Sheriff's Department Custody Division, and as such is responsible for maintaining and operating county jail facilities, including the Central Jail, and promulgating and enforcing rules for the care and treatment of prisoners at the Jail.

9. Defendant Walter Howell has succeeded John P. Knox and is not the Chief of the Los Angeles County Sheriff's Department Custody Division and as such is responsible for maintaining and operating County jail facilities, including the Central Jail, and for promulgating and enforcing rules for the care and treatment of prisoners at the Jail.

10. Defendant James White is, and was at all times relevant herein, a Captain of the Los Angeles County Sheriff's Department and the county official directly responsible

for the administration of the Central Jail.

11. Jack Holt, Jack E. Robbins, Ernest Zansler and John Johnson are lieutenants of the Los Angeles County Sheriff's Department and as such supervise, manage and administer the Jail.

12. James D. Austin, LeRoy K. Johnson, Gerald Boswell, Jerry Exline, Richard Hendershot, James Cinderelli, David Betkey, Danny Calhoun, Robert Chrisman, Steven Crawford, Dan Dohner, John Fehrs, Steven Gayhart, Antonio Samaniego, Randall Sisk, Frederick Sykes, John Wargo and Frederick Weise are Los Angeles County Sheriff's Department officers assigned to the Jail and as such control and govern the everyday operations of the Jail and the lives of prisoners. These defendants are representative of a class, within the meaning of Rule 23, Federal Rules of Civil Procedure, consisting of all Los Angeles County Sheriff's Department officers below the rank of lieutenant assigned to the Jail. This class (hereinafter referred to as Defendant Class I) is ongoing and includes all Los Angeles County Sheriff's Department officers below the rank of lieutenant who are or will be in the future assigned to the Jail.

13. Dr. Arman Toomajian is the Los Angeles County Sheriff's Department Medical Director and as such is the county official directly responsible for prisoner medical care in the Jail.

14. Drs. Patrick Lavelle, Donald Verin, and Wetzel, whose first name is unknown, are doctors employed by the Los Angeles County Sheriff's Department and assigned to the Jail and as such are responsible for providing prisoners with medical care. These defendants are representatives of a class, within the meaning of Rule 23, Federal Rules of Civil Procedure consisting of all doctors employed at the

Jail. This class (hereinafter referred to as Defendant Class II) is ongoing and includes all doctors who are or will be in the future assigned to the Jail.

15. Messrs. Carnette, whose first name and badge number are unknown, Davis, whose first name is unknown but whose badge number is 41, and Taylor, whose first name and badge number are unknown, are nurses employed by the Los Angeles County Sheriff's Department and assigned to the Jail and as such are responsible for providing prisoners with medical care. These deendants are representative of a class, within the meaning of Rule 23, Federal Rules of Civil Procedure, consisting of all nurses employed at the Jail. This class (hereinafter referred to as Defendant Class III) is ongoing and includes all nurses who are or will be in the future assigned to the Jail.

16. Defendant classes I, II and III are proper for the following reasons:

(a) The members of the defendant classes are so numerous that joinder of all of them is impracticable;

(b) The members of the defendant classes are readily identifiable from the defendants' records;

(c) There are questions of law and fact common to the defendant classes;

(d) The claims and defenses of the representative defendants are typical of the claims and defenses of their classes;

(e) The named defendants will fairly and adequately protect the interests of their classes;

(f) The prosecution of separate actions by plaintiffs and their class against individual members of the defendant classes would create the risk of inconsistent and incompatible adjudications;

(g) Adjudications against the representative defendants would as a practical matter be dispositive of the interests of the defendant classes and would substantially impair and impede the ability of the defendant classes to protect those interests.

17. Defendants Edward Edelman, Kenneth Hahn, James Hayes, Peter F. Schabarum, and Baxter Ward are, and at all times relevant herein have been, Supervisors of the County of Los Angeles, California, and as such responsible for the maintenance and operation of the jails within said County, including the Central Jail, and are responsible for the welfare of the inmates of these jails and for the control of persons, including defendants named in paragraphs 7 through 10 herein assigned to operate said jails. Defendant Supervisors constitute the governing board of the County of Los Angeles and are responsible for the allocation of funds for all county purposes, maintenance of County jails not excluded.

18. All the individual defendants as well as the County of Los Angeles shall hereinafter be referred to collectively as "defendant", which term shall be used to mean defendants and each of them, unless otherwise specified:

19. Defendants and each of them are, and at all times herein mentioned have been, the agents, servants and employees of one another, and in doing the acts and maintaining the conditions herein complained of, are and have been acting within the course and scope of said agency and employment.

20. In doing all the acts and omissions, and in maintaining the conditions, herein described, defendants, and each of them, separately and in concert, have been and are acting under color of the statutes, ordinances, regulations, custom and usages of the State of California and the County of Los Angeles. Said acts and omissions were committed

and conditions were maintained by defendants personally and through actions of their agents and subordinates, acting pursuant to instructions from defendants.

21. Other agents, servants and employees of defendant Pitchess, not specifically named herein, work at the Central Jail and carry out the directions and policies of defendant Pitchess. These agents, servants and employees of defendant Pitchess shall hereinafter be referred to as "officers", the term by which they are referred to within the Jail. Included within the scope of their employment is the care, treatment and control of prisoners at the Jail.

#### *STATEMENT OF THE CASE*

22. Defendants deny plaintiffs adequate contact with the general community by doing the following:

(a) Opening, reading and censoring all prisoners' mail to and from attorneys and others;

(b) Limiting the time, frequency and duration of prisoners' personal visits;

(c) Prohibiting physical contact during prisoners' personal visits and prohibiting conjugal visits;

(d) Denying prisoners and their visitors privacy and surveilling conversations during visits;

(e) Requiring visitors to wait in line long periods of time before visits and treating visitors in a rude manner;

(f) Denying pretrial prisoners night visits;

(g) Denying prisoners direct access to telephones to make outgoing calls;

(h) Prohibiting prisoners from receiving incoming telephone calls; and

(i) Prohibiting prisoners from receiving through the mail or from visitors newspapers, magazines, books, reading matter and other such forms of written communication from



the outside world.

23. Defendants deny plaintiffs the opportunity to personally consult with their attorneys in privacy. Attorney-client communications take place in an area, mislabeled the "attorney room," which often becomes crowded and which is simultaneously used by law enforcement officers, parole and probation officers, bailbondsmen and clergy. As a consequence, interviews between prisoners and attorneys lack adequate privacy, particularly during busy daytime hours; and conversations can be and are overheard by others in the room.

24. Defendants deny pretrial prisoners access to an adequate law library, legal materials and adequate opportunity to communicate in person or by telephone with counsel and do not permit prisoners to receive from outside the Jail any legal material, unless by Court order.

25. Defendants deny plaintiffs adequate opportunity to physically exercise themselves, recreate and entertain themselves and thus subject plaintiffs to excruciating boredom. Pretrial prisoners are completely denied any opportunity to exercise or recreate outdoors, are allowed out of their cells for exercise only one hour per day, if at all, are only infrequently permitted the use of the day rooms and are totally without access to television, movies and live entertainment.

26. The Jail's reading library is inadequate, and pretrial prisoners have only indirect access to that library by a cart that comes through pretrial prisoners housing areas about once each two weeks.

27. Defendants subject prisoners going to Court to a harsh, exhausting routine which jeopardizes their right to a fair trial. On days they go to court prisoners are awakened between 3:45 a.m. and 4:00 a.m.. They then spend their days in crowded holding areas in the Jail, on buses to and

from the Courts and in holding tanks at the courts. During this time they are not provided adequate meals. Prisoners are frequently returned to the Jail from court at 8:00 p.m. and even as late as after midnight, thereby getting little sleep before the next day's courts appearance.

28. Defendants routinely confiscate plaintiff's personal belongings, including but not limited to correspondence and photographs.

29. Defendants deny plaintiffs an adequate opportunity to obtain from family and friends or to purchase at the Jail commissary necessities and amenities of life such as soap, toothbrush, toothpaste, comb, deodorant, paper, pencils, and reading matter; and defendants fail to provide indigent prisoners with such items.

30. Defendants deny plaintiffs adequate opportunity to bathe on a daily basis. Pretrial prisoners in particular are herded into overcrowded shower areas where they must bathe 10 men per shower head.

31. Defendants deny plaintiffs sufficient time to eat their meals and provide pretrial prisoners with only spoons to eat their meals.

32. Prisoner housing at the Jail consists of cells designed for one, two, four or six men. Lighting in all cells is inadequate for reading and is controlled from outside the cells by Jail officers. The two, four and six men cells are not furnished with any chairs, stools, tables or desk areas. All areas occupied by prisoners are windowless and without a view to the outside world.

33. The physical conditions of plaintiffs' confinement constitutes a health threat in that the Jail lacks proper heating and ventilation and defendants fail to take adequate measures to preserve sanitation and to prevent the spread of contagious diseases. Cells for pretrial prisoners, designed



for two, four or six men are overcrowded and frequently extra prisoners are assigned to such cells and required to sleep on the floor. Toilets are located inside the cells, and prisoners must eliminate body wastes in the immediate presence of their cellmates.

34. Both medical care and routine health care at the Jail are, when available at all, inadequate, and usually characterized by a callous disregard for the well-being of prisoners and for the basic tenets of sound medical practice. The standards of medical care at the Jail are well below those generally accepted as adequate in Los Angeles County or the State of California. Defendants do not provide adequate preventive and diagnostic medical services to prisoners upon admission to the Jail. All prisoners already in the Jail are unnecessarily exposed to dangerous medical and/or contagious conditions that new prisoners might possess; and consequently, their lives and health are needlessly impaired. Defendants seize all medicine, drugs, pills, orthopedic appliances and some eyeglasses from prisoners upon admission to the Jail, even though such medication or devices may be lawfully prescribed and necessary to maintain the prisoners' life and health during chronic illnesses, such as epilepsy; and as a result newly admitted prisoners often suffer seizures or great discomfort and other adverse effects resulting from sudden deprivations of such medication or devices. Prisoners who manage to get medication while in the Jail often receive inappropriate and inadequate substitutes for seized prescription medications. Medication usually is distributed to prisoners at hours convenient to defendants and not to the medical needs of the prisoner, and prisoners often receive no medication at all when they are away from the Jail in Court. Medical care when given is frequently grossly inadequate and inappropriate.

35. Nursing personnel at the Jail are engaged in the unauthorized practice of medicine in violation of the law of California in that said nurses without adequate supervision make decisions whether to treat prisoners and/or whether to refer prisoners to a doctor.

36. Many unconvicted prisoners admitted to the Jail are drug addicts, and suffer withdrawal symptoms shortly after admission to the Jail. Defendants are well aware of this fact. Although they are required to do so by California Health and Safety Code §11222, Defendants make little or no attempt to provide prisoners under their care, whom they have reasonable cause to believe are addicted to controlled substances, with medical care necessary to ease symptoms of withdrawals from those substances.

37. Psychologists or psychiatrists are not available to give routine care to prisoners. Prisoners who are "diagnosed" as having psychological problems by Jail officers are "treated" with isolation. Supervision of mentally disturbed prisoners is inadequate, and little or no medical or psychological treatment is provided for them. No attempt is made to transfer mentally ill prisoners to more appropriate facilities. As a result mentally disturbed prisoners often commit suicide in the Jail.

38. Defendants' rules and regulations which govern operation of the Jail and the actions and practices of officers are not posted throughout the Jail and are not made available to all prisoners. Those rules and regulations which are available to some inmates are printed solely in English; and Defendants' method of publishing is to post them in only some parts of the Jail. Thus, many prisoners are ignorant of the Jail's rules and regulations; and in particular, Spanish-speaking prisoners are often totally unaware of their existence or content. Moreover, many of these "published" rules are unconstitutionally vague — giving no adequate

notice of the conduct they are intended to prevent — and are selectively enforced by defendants. Other rules are enunciated by officers on an *ad hoc* basis, frequently after an "offense" has allegedly occurred. These "rules" vary from officer to officer, according to his mood and/or feelings toward the prisoners involved.

39. Defendants impose punishment upon prisoners for violations of Jail rules without notice, hearing or opportunity for prisoners to speak on their own behalf or otherwise contest the charges against them. No standardized punishments exist for violation of either written or unwritten rules. Instead, penalties, like rules, are applied on an arbitrary *ad hoc* basis. Penalties are not necessarily limited to the alleged offender. Sometimes an entire housing area of prisoners is punished for an infraction allegedly committed by one of their number. Punishments include, but are not limited to, withdrawal of privileges, forced labor and solitary confinement. All punishments may be levied for an indefinite period of time.

40. For purposes of discipline and so-called administrative segregation, defendants place many prisoners in abysmal housing areas known as "The Hole" and "Siberia" and in other housing areas utilized for segregation and isolation.

41. The defendants govern plaintiffs' lives with a reign of terror, the principal ingredient of which is a widespread pattern and practice of unprovoked assaults of prisoners by Jail officers. Many jail officers under defendants' supervision are inexperienced in corrections and psychologically unsuited for work as correctional officers because the Sheriff's Department is primarily an investigative and police agency and its employees, including Jail officers, receive little or no training in corrections. Moreover, the most inexperienced officers are assigned to duty at the Jail. Their

inexperience and psychological unfitness often cause them to perform the acts or omissions complained of herein which result in harm to the plaintiffs as hereinafter elaborated.

42. Defendants maintain or permit conditions in the Jail and follow practices which they know or have reason to know are deleterious to the physical and mental well-being of the prisoners for whose health they are responsible. The brutality, and indifference perpetrated on prisoners by defendants and their employees and the resultant mental anguish suffered by plaintiffs ensure that plaintiffs will suffer mental illness or severe distress as a result of confinement in the Jail.

43. Defendants' treatment of unconvicted prisoners is incredibly egregious in view of the fact that convicted prisoners in the Jail, in other Los Angeles County jail facilities and in California and Federal prisons, are treated considerably better than unconvicted prisoners in the Jail. Although the lives of convicted prisoners are far from idyllic, convicts do not face the same oppressive confinement and boredom experienced by the Jail's unconvicted prisoners. Convicts generally live in superior housing and have daily opportunity to exercise, recreate, entertain themselves and bathe.

**FIRST CLAIM FOR RELIEF: SUMMARY PUNISHMENT OF PRETRIAL PRISONERS WITHOUT DUE PROCESS OF LAW.**

44. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 43, inclusive.

45. Pretrial detainees are presumably innocent and for the most part are confined in lieu of bail, which they are too poor to afford, to ensure their attendance at trial. Yet defendants inflict upon these prisoners conditions, restrictions and constraints which individually and in the aggregate

constitute summary punishment without even a semblance of due process of law in contravention of 42 U.S.C. §1983 and the Fifth and Fourteenth Amendments to the United States Constitution.

**SECOND CLAIM FOR RELIEF: *DENIAL TO PRETRIAL PRISONERS OF EQUAL PROTECTION OF LAW.***

46. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 43, inclusive.

47. Most pretrial prisoners are detained only because they are financially unable to post bail. By contrast, wealthier persons awaiting trial who can afford to post bail are not incarcerated or subjected to the conditions which these plaintiffs experience. Wealthier persons have, *inter alia*, unrestricted access to counsel; the opportunity to do legal research and to contact witnesses; the opportunity to obtain proper rest and nutrition and to maintain their physical and emotional health so that they can effectively assist in preparation of their trials and appear as effective witnesses for themselves. Defendants have denied and will continue to deny all these rights to pretrial prisoners solely because of their poverty.

48. Defendants, by committing the acts, omissions and practices complained of in this claim for relief are depriving pretrial prisoners of equal protection of the laws in violation of 42 U.S.C. §1983 and the Fourteenth Amendment to the United States Constitution.

**THIRD CLAIM FOR RELIEF: *PREJUDICE TO A FAIR TRIAL.***

49. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 43, inclusive.

50. The physically and psychologically oppressive conditions at the Jail impair unconvicted prisoners' mental and

physical health so that they cannot be effective witnesses for themselves or assist in preparing their defenses, and upon plaintiffs' information and belief, cause many unconvicted prisoners to plead guilty to avoid further confinement in the Jail. Inadequate sleep, hours on buses going to and from court, crowded holding tanks and very little food render many unconvicted prisoners listless and unable to assist or understand their defense.

51. The conditions to which presumably innocent prisoners awaiting trial are subjected in the Jail, as well as the restrictions placed on their access to counsel and to the courts undermine the integrity of the entire trial process and infringe on unconvicted prisoners' rights to a fair trial thereby depriving these prisoners of rights guaranteed them by 42 U.S.C. §1983 and the Fifth, Sixth, Seventh and Fourteenth Amendments to the Constitution of the United States.

**FOURTH CLAIM FOR RELIEF: DENIAL OF ACCESS TO COUNSEL AND TO THE COURTS.**

52. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 22, inclusive, and 27.

53. Defendants restrict prisoners' access to courts and to counsel and to the effective assistance of counsel by, among other things:

- (a) Restricting prisoner-attorney mail;
- (b) Restricting and censoring prisoner mail to and from courts;
- (c) Refusing to allow private attorney-prisoner interviews in the attorney room;
- (d) Refusing to permit prisoners phone calls to attorneys, investigators and witnesses;
- (e) Subjecting prisoners to an exhausting routine on court days.



54. Defendants further deny pretrial prisoners access to the courts and their rights to assist counsel in preparing a defense by making it impossible for prisoners to prepare legal documents or assist counsel in legal research due to inaccessibility of law books or to locate and prepare witnesses due to the restrictions on communications.

55. Defendants' actions, practices, policies and omissions in restricting and/or denying prisoners their constitutionally protected rights of access to the courts and to counsel and to petition for the redress of grievances deprive plaintiffs of rights secured them by 42 U.S.C. §1983 and the First, Fifth, Sixth and Fourteenth Amendments to the United States Constitution.

**FIFTH CLAIM FOR RELIEF: *DENIAL OF RIGHTS OF EXPRESSION, COMMUNICATION AND ASSOCIATION.***

56. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 22, inclusive, and 28.

57. Defendants censor the flow of communication to and from prisoners and effectively isolate prisoners from the outside world in contravention of plaintiffs' rights guaranteed them by 42 U.S.C. §1983 and the First, Fourth and Fourteenth Amendments to the United States Constitution.

**SIXTH CLAIM FOR RELIEF: *DENIAL OF DUE PROCESS IN DISCIPLINARY AND ADMINISTRATIVE PROCEEDINGS.***

58. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 43, inclusive.

59. Defendants mete out discipline to all prisoners and in effect subject pretrial prisoners to punitive, high security classification in a capricious manner without the rudiments of fundamental fairness, namely prior notice of what con-

stitutes a disciplinary infraction and what punishments attach, prior notice of and opportunity for a prompt hearing before an impartial tribunal at which hearing the accused may be represented by counsel or counsel substitute, confront adverse witnesses, and present favorable evidence, and a reasoned decision with findings based on the evidence. Defendants' failure to provide these procedural protections denies plaintiffs due process of law as guaranteed by 42 U.S.C. §1983 and the Fifth and Fourteenth Amendments of the United States Constitution.

**SEVENTH CLAIM FOR RELIEF: *CRUEL AND UNUSUAL PUNISHMENT.***

60. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 43, inclusive.

61. The conditions, restrictions and constraints, individually and in the aggregate, suffered by prisoners at the hands of defendants constitute cruel and unusual punishment in contravention of plaintiffs' rights under 42 U.S.C. §1983 and the Eighth and Fourteenth Amendments to the United States Constitution.

**EIGHTH CLAIM FOR RELIEF: *INADEQUATE MEDICAL CARE.***

62. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 through 21, inclusive, and 34 through 37 inclusive.

63. Defendants provide plaintiffs with inadequate, superficial care in violation of plaintiffs' rights to due process of law secured to them by 42 U.S.C. §1983 and the Fifth and Fourteenth Amendments to the United States Constitution.



**NINTH CLAIM FOR RELIEF: VIOLATIONS OF CALIFORNIA LAW.**

64. Plaintiffs incorporate herein by reference the allegations contained in paragraphs 1 through 22, inclusive, 28 and 34 through 37, inclusive.

65. Defendants deny plaintiffs their right to make two phone calls within three hours of booking guaranteed by California Penal Code §851.5.

66. Defendants confiscate plaintiffs' personal property without providing a receipt in violation of California Penal Code §4003.

67. Defendants fail to provide plaintiffs care and treatment by a physician 24 hours per day and deny plaintiffs treatment by their private physicians in violation of California Penal Code §4023.

68. Jail nurses are engaged in the unauthorized practice of medicine, in violation of California Business and Professions Code, §§2141, 2392 and 2726.

69. Defendants fail to provide prisoners who are addicted to controlled substances with medical treatment necessary to ease the symptoms of withdrawal in violation of California Health and Safety Code §11222.

**DECLARATORY JUDGMENT**

70. An actual and substantial controversy exists between Plaintiffs and Defendants, in that Plaintiffs complain that Defendants are violating and will continue to violate their most fundamental rights under the United States Constitution and the laws and statutes of the United States and California and commit acts and omissions threatening Plaintiffs' lives and health. Defendants have persisted in subjecting Plaintiffs to unconstitutional and harmful conditions despite protests by the Jail's prisoners. Defendants may in the future make minor changes in the Jail from time to time

in response to protests but they will do nothing substantial to remedy the unconstitutional and harmful conditions to which they subject Plaintiffs or to change the policies and procedures. Defendants deny that their actions are illegal or unconstitutional or cause injuries to Plaintiffs.

### *INJUNCTIVE RELIEF*

71. All of the conditions and practices separately and in the aggregate make incarceration in the Jail severe, punitive and restrictive. The Plaintiffs are now suffering and will continue to suffer irreparable injury as a direct and proximate result of the conditions and practices herein alleged and are without a plain, speedy, adequate remedy at law in that:

(a) Money damages will not adequately compensate Plaintiffs for denial of their Civil Rights or for time confined in the Jail pursuant to pretrial detention under conditions that could be successfully challenged in the Courts.

(b) Plaintiffs are psychologically and physically harmed and damaged; and unconvicted prisoners are induced to plead guilty to criminal charges pending against them in order to avoid the conditions and practices herein described which exist at the Jail.

(c) Money damages for Plaintiffs' injuries are extremely difficult to calculate.

### *PRAYER FOR RELIEF*

WHEREFORE, Plaintiffs pray:

1. That the Court certify this action as a class action.
2. That the Court personally view the Los Angeles County Central Jail to gain assistance in rendering a ruling.
3. That the Court enter judgment declaring that defendants, and each of them, through the individual and collective acts, practices, and omissions complained of herein,

have subjected and are subjecting plaintiffs to:

a. Summary punishment without due process of law in contravention of 42 U.S.C. §1983 and the Fifth and Fourteenth Amendments to the United States Constitution as enumerated in Plaintiffs' First Claim for Relief;

b. Denial of equal protection of law in contravention of 42 U.S.C. §1983 and the Fourteenth Amendment to the United States Constitution as enumerated in Plaintiffs' Second Claim for Relief;

c. Prejudice to fair trial in contravention of 42 U.S.C. §1983 and the Fifth, Sixth, Seventh and Fourteenth Amendments to the United States Constitution as enumerated in Plaintiffs' Third Claim for Relief;

d. Denial of access to counsel and the Courts in contravention of 42 U.S.C. §1983 and the First, Fifth, Sixth and Fourteenth Amendments to the United States Constitution as enumerated in plaintiffs' Fourth Claim for Relief;

e. Denial of Rights of Expression, Communication and Association in contravention of 42 U.S.C. §1983 and the First, Fourth and Fourteenth Amendments to the United States Constitution as enumerated in plaintiffs' Fifth Claim for Relief;

f. Denial of due process in disciplinary and classification proceedings in contravention of 42 U.S.C. §1983 and the Fifth and Fourteenth Amendments to the United States Constitution as enumerated in plaintiffs' Seventh Claim for Relief;

g. Cruel and unusual punishment in contravention of 42 U.S.C. §1983 and the Eight and Fourteenth Amendments to the United States Constitution as enumerated in plaintiffs' Seventh Claim for Relief;

h. Denials of adequate medical care in contravention of 42 U.S.C. §1983 and the Fourteenth Amendment to the

United States Consitution as enumerated in plaintiffs' Eighth Claim for Relief;

i. Violations of California Penal Code §§851.5, 4003, 4023, Business and Professions Code §§2141, 2392 and 2726 and Health and Safety Code §11222 as enumerated in plaintiffs' Ninth Claim for Relief;

4. That the Court issue preliminary and permanent injunctions assuring that pretrial prisoners are accorded all of the rights and privileges of the innocent; and that all prisoners not be subjected to cruel and unusual punishment and not denied their other constitutional and statutory rights. More specifically, the Plaintiffs should be assured by the plan, *inter alia*:

a. That the prisoners be accorded essential preventive medical care and receive adequate and sound medical, psychiatric and dental health care;

b. That prisoners addicted to controlled substances be accorded with reasonable medical care to ease the symptoms of withdrawal.

c. That a regular recreational and exercise program, outside of the cells, be expanded and that all prisoners be allowed outdoors for sufficient periods to insure their continuous physical and mental well being;

d. That the Jail and its prisoners living areas therein be kept in a safe and healthy condition, with proper heating, ventilation and provisions for sanitation;

e. That pretrial prisoners be accorded private and adequate living space in one man cells with reasonable lighting and furnishings.

f. That defendants be enjoined from placing pretrial prisoners in overcrowded cells and from requiring some pretrial prisoners to sleep on the floor.

g. That all prisoners be provided suitable and sufficient time to eat in accordance with recognized nutritional needs and be provided with knife, fork and spoon as utensils.

h. That education and vocational work programs be established;

i. That the prisoners have continuous opportunity to talk and associate with each other, for legitimate purposes including but not limited to socializing.

j. That the prisoners be entitled to receive through the United States Mail or from visitors and retain books, magazines, newspapers, law books and legal materials and be provided with direct access to adequate reading and law libraries;

k. That visiting conditions be established which assure decency, comfort, privacy of conversations, conjugal rights, and visiting periods of adequate duration and frequency.

l. That no limitations be placed on persons an inmate may see, communicate with and receive communications from;

m. That no censorship be executed on incoming or outgoing mail, newspapers, books and periodicals; that the only control on incoming mail be for the inspection of contraband such as drugs or weapons.

n. That adequate phones be installed so that prisoners have access to them in order to make local, outgoing calls without charge and to receive incoming calls, and that such phones not be wiretapped or monitored in any manner;

o. That a reasonable code of intra-jail behavior providing for inmates rights to be promulgated in English and Spanish and provided for each prisoner upon entry to the jail;

p. That no discipline or classification of inmates be instituted without first affording them notice, the assistance

of counsel and counsel substitute, the confrontation of accusers, the right to cross-examine adverse witnesses, a written decision containing reasons therefor and evidence relied upon, and hearing before an impartial tribunal;

q. That prisoners be protected from unprovoked assaults by Jail officers;

r. That defendants be enjoined from assigning inadequately trained, rookie officers to the Jail.

s. That plaintiffs be assured of adequate opportunity to bathe every day;

t. That all prisoners, including the indigent, have reasonable opportunity to obtain life necessities and amenities.

u. That all prisoners have the opportunity to obtain adequate rest and sleep before and during times they appear in court and that all prisoners going to court not be awakened earlier than 6:00 a.m. and not be returned to the Jail later than 6:00 p.m.

v. That prisoners have the opportunity to privately and confidentially communicate with their attorneys in a room provided by defendants for that purpose.

w. That prisoners be allowed to retain in reasonable quantities their personal belongings, including, but not limited to, correspondence and photographs.

x. That Jail living areas be humanized and provided with reasonable furnishings and windows to the outside world.

5. That if a satisfactory plan cannot be submitted and implemented, the Defendants be enjoined and restrained from incarcerating or detaining any and all prisoners in the Jail and further enjoined from transferring prisoners to an alternative facility unless Defendants can provide evidence satisfactory to the Court that the alternative does not suffer from the conditions herein complained of and that it is



accessible to visitors and counsel.

6. That the Court retain jurisdiction over Defendants until such time that the Court is satisfied that the practices, policies, acts and omissions alleged herein no longer exist and will not reoccur.

7. That the Court award reasonable attorneys' fees and costs of suit herein to plaintiffs.

8. That the Court award such other relief as may be necessary and proper.

Respectfully submitted,

/s/ Terry Smerling

TERRY SMERLING

Attorney for Plaintiffs

(Declaration of Service omitted in printing).

**Answer to Second Amended Complaint.**

United States District Court, Central District of California.

Dennis Rutherford, et al., Plaintiffs, vs. Peter J. Pitchess, et al., Defendants. No. CV 75-4111 WPG.

Filed: July 6, 1976.

Defendants PETER J. PITCHESS, as Sheriff of the County of Los Angeles, WILLIAM ANTHONY, as Assistant Sheriff of the County of Los Angeles, WALTER HOWELL, as Chief of the Custody Division of the Los Angeles County Sheriff's Department, JAMES WHITE, as Commander of the Los Angeles County Central Jail, JACK HOLT, JACK E. ROBBINS, ERNEST ZANSLER, as Los Angeles County Sheriff's Department Lieutenants assigned to the Los Angeles County Jail, JAMES D. AUSTIN, LEROY K. JOHNSON, GERALD BOSWELL, RICHARD HENDERSHOT, JAMES CENDERELLI, DANNY CALHOUN, STEVEN CRAWFORD, JOHN FEHRS, STEVEN GAYHART, ANTONIO SAMANIEGO, FREDERICK SYKES, JOHN WARGO and FREDERICK WEISE, as Los Angeles County Sheriff's Department officers assigned to the Los Angeles County Central Jail, DR. ARMAN TOOMAJIAN, as Los Angeles County Sheriff's Department Medical Director, DRS. PATRICK LAVELLE, and FREDERICK WETZEL, as doctors employed by the Los Angeles County Sheriff's Department and assigned to the Central Jail, and MR. CHARLES DAVIS, R.N., MR. GENE GARNETT, and MR. DONALD TAYLOR employed by the Los Angeles County Sheriff's Department for themselves alone and for no other defendant and in the capacity sued herein and in no other capacity, in answer to the Second Amended Complaint in the above-entitled action, admit, deny and affirmatively allege as follows:



1. These answering defendants deny paragraphs 1 and 2 of the Second Amended Complaint in the above-entitled action.

2. In answer to the allegations contained in paragraph 3 of the above-entitled complaint, these answering defendants have insufficient information and belief to enable them to answer the allegations of said paragraph, and basing their denial on that ground deny each and every allegation contained therein.

3. In answer to the allegations contained in paragraph 4 of the complaint in the above-entitled action, these answering defendants have insufficient information to enable them to answer the allegation that Dennis Rutherford, Harold Taylor, Gregory Armstrong and William Robles are or were unable to make bail due to their indigency, and basing their denial on that ground deny such allegation. In further answer to the allegations contained in said paragraph 4, these answering defendants affirmatively allege that Dennis Rutherford, Harold Taylor, Gregory Armstrong and William Robles have other means of obtaining their release from jail, by seeking a reduction in the amount of their bail or by obtaining their release on their own recognizance. Moreover, defendants are informed and believe, and therefore allege that since the time that this action was brought, plaintiffs Dennis Rutherford and William Robles have obtained their release from jail by posting bail or by other means. In further answer to paragraph 4, these defendants deny that Harold Taylor is in custody of the jail. In further answer to the allegations contained in said paragraph 4, these answering defendants affirmatively allege that the presumption of innocence is solely an evidentiary presumption available in a criminal trial and is such a presumption for no other purpose.

4. In answer to the allegations contained in paragraph 5 of the above-entitled complaint these defendants deny that Richard Orr and Jack Jones are currently serving sentences in the jail.

5. These answering defendants deny each and every allegation contained in paragraph 6 of the Second Amended Complaint in the above-entitled action. In further answer to the allegations contained in said paragraph 6, these answering defendants affirmatively allege: that plaintiffs and plaintiffs' attorney cannot fairly and adequately represent both a class of pre-trial inmates and a class of sentenced inmates as the interests of each class are different from and contrary to the interests of the other class in that in order to benefit one class, it may be necessary to take rights and benefits away from the other; that plaintiffs are not fairly and adequately representing the interests of the purported classes and subclasses in that they have failed to raise claims reasonably expected to be raised by members of the class and subclasses, such as claims for damages; that there is an insufficient community of interest to justify the maintenance of this action as a class action; that there are no significant or substantial benefits that will accrue to either the litigants or the courts in permitting this action to be maintained as a class action; and it is unnecessary and undesirable to permit the maintenance of a class action where only declaratory or injunctive relief is sought because of alleged facially invalid or unconstitutional practices or procedures or policies in that the determination of the questions of constitutionality or invalidity can be made by the court and determined to be valid or constitutional regardless of whether the action is treated as an individual action or a class action; and that the plaintiffs, and each of them, lack standing as to all of the issues alleged herein and that there is no existing actual case or controversy between the defendants and the plaintiffs and

their representatives have insufficient resources to properly prosecute this action on behalf of the alleged class and subclasses.

6. In answer to paragraph 11 in the above-entitled complaint these defendants deny that John Johnson presently supervises, manages and administers the jail.

7. In answer to paragraph 12 in the above-entitled complaint these defendants deny that Jerry Exline, David Betkey, Robert Chrisman, Don Dohner or Randall Sisk are assigned to the jail. In further answer these defendants deny that there is a Steven Gayhart assigned to the jail.<sup>1</sup> In further answer to paragraph 12 these defendants deny and affirmatively allege that the defendants named in paragraph 12 are representatives of a class within the meaning of Rule 23, Federal Rules of Civil Procedure. These defendants further allege that there is lacking a community of interest among the members of the purported class in that there are insufficient issues of law and fact common to these individuals and that the representatives will not fairly represent the interests of the class.

8. In answer to paragraph 14 in the above-entitled complaint these defendants deny and affirmatively allege that the defendants named in paragraph 14 are representatives of a class within the meaning of Rule 23, Federal Rules of Civil Procedure. In further answer to paragraph 14, these defendants deny that Dr. Donald Vernin is employed by the Los Angeles County Sheriff's Department.

9. In answer to paragraph 15 in the above-entitled complaint these defendants deny and affirmatively allege that the defendants named in paragraph 15 are representatives of a class within the meaning of Rule 23, Federal Rules of

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<sup>1</sup>There is an individual with that surname assigned however.

Civil Procedure. In further answer to paragraph 15, these defendants deny that Mr. Carnette and Mr. Davis are nurses.

10. In answer to paragraph 16 in the above-entitled complaint these defendants deny each and every allegation contained therein. In further answer to paragraph 16 these defendants allege: that it is unnecessary and undesirable to maintain this action as a class action where only declaratory or injunctive relief is sought because of alleged facially invalid or unconstitutional practices or procedures or policies in that the determination of the questions of constitutionality or invalidity can be made by the court and determined to be valid or constitutional regardless of whether the action is treated as an individual or class action; that some of the purported classes are not numerous within the meaning of Rule 23; that the membership of purported classes that extend into the future are not identifiable; that questions of whether individual members of the purported classes have deprived plaintiffs of their rights will depend on individual sets of facts and circumstances and that therefore there are insufficient questions of law and fact present for class treatment of these individuals; that the claims and defenses of the purported representative defendants will depend on individual sets of facts and circumstances and that therefore these claims and defenses are not typical of the claims and defenses of the purported classes; that the members of the purported classes are being subjected to guilt by association that may result in personal and professional injury without notice and an opportunity to be heard that their interests cannot be protected by named defendants selected by plaintiffs; and that there is no case or controversy between the defendants and plaintiffs on each of the issues purportedly put into issue herein.

11. In answer to the allegations contained in paragraph 17 of the Second Amended Complaint in the above-entitled

action, these answering defendants deny that defendants Edelman, Hahn, Hayes, Schabarum and Ward are responsible for the maintenance and operation of the jails within the County of Los Angeles or the Central jail, or that they are responsible for the welfare of the inmates of these jails. In further answer to the allegations of paragraph 17 of the Second Amended Complaint in the above-entitled action, these answering defendants deny that defendants Edelman, Hahn, Hayes, Schabarum and Ward are responsible for the control of persons assigned to operate said jails, including defendants named in paragraphs 7 through 15 of said complaint. In further answer to the allegations of said paragraph 17 these answering defendants affirmatively allege that the Board of Supervisors of the County of Los Angeles do not have control over the specialized or professional duties of County officers, such as the Sheriff of the County of Los Angeles, and cannot direct him to perform his lawful duties in any particular manner. In further answer to paragraph 17 these defendants allege that acts of defendants Edelman, Hahn, Hayes, Scharbarum and Ward in allocating funds do not give rise to a claim under the Civil Rights Act or state law.

12. In answer to paragraph 18 these defendants deny that the "County of Los Angeles" may be sued under 42 U.S.C. 1983 or 1985.

13. In answer to the allegations contained in paragraph 19 of the Second Amended Complaint in the above-entitled action, these answering defendants deny each and every allegation contained in said paragraph, and in further answer to the allegations of said paragraph, affirmatively allege that the defendants are employees of the County of Los Angeles, which is not a party to this action, and not employees of any of the defendants herein.



14. In answer to the allegations of paragraph 20 of the Second Amended Complaint in the above-entitled action, these answering defendants deny that they have done the acts and omissions or maintained the conditions, either separately or in concert, as alleged in said Second Amended Complaint, and further deny that any such acts were done personally or through the acts of agents or subordinates, whether such were acting alone or pursuant to instructions. In further answer to paragraph 20 these defendants allege that they are not subject to equitable or declaratory relief for any acts or omissions of their subordinates.

15. In answer to paragraph 21 of the above-entitled complaint these answering defendants deny each and every allegation contained therein.

16. In answer to paragraph 22 of the above-entitled complaint these answering defendants deny each and every allegation contained therein.

17. In answer to paragraph 23 of the above-entitled complaint these answering defendants admit that some law enforcement officers, some parole and probation officers and some bail bondsmen and some clergy are permitted to use the attorney room at Central Jail. In further answer to the allegations contained in paragraph 23 of the complaint in the above-entitled action, these answering defendants deny each and every other allegation contained in said paragraph which is not herein specifically admitted.

18. These answering defendants deny each and every allegation contained in paragraph 24 of the Second Amended Complaint in the above-entitled action.

19. In answer to the allegations contained in paragraph 25 of the Second Amended Complaint in the above-entitled action, these answering defendants admit that the roof exercise yard at Central Jail is not presently large enough to



permit most pretrial detainees outdoor exercise. In further answer to said paragraph, these answering defendants affirmatively allege that with the opening of the jail addition in the near future, pretrial detainees will be given outdoor recreation. In further answer to the allegations contained in said paragraph, these answering defendants admit that some pre-trial inmates are without access to television, movies, and live entertainment. In further answer to the allegations of said paragraph, these answering defendants deny each and every allegation contained in said paragraph which is not herein specifically admitted.

20. In answer to the allegations contained in paragraph 26 of the complaint in the above-entitled action, these answering defendants admit that a book cart containing books from the jail's reading library comes through pre-trial prisoners housing areas once every two weeks and that inmates may select books from such cart or request books from the jail reading library. In further answer to the allegations contained in said paragraph 26, these answering defendants deny each and every other allegation contained therein and which is not herein specifically admitted.

21. In answer to the allegations contained in paragraph 27 of the above-entitled complaint these defendants admit that inmates are transported to court where they are kept in holding tanks of the court and that they are returned to the jail at the middle or end of the court day. In further answer to paragraph 27 these defendants deny each and every other allegation contained therein. In further response to paragraph 27 these defendants allege that plaintiffs are barred and estopped from raising issues relevant to their right to a fair trial because these issues must be raised in plaintiffs' individual criminal trials.

22. These answering defendants deny each and every allegation contained in paragraphs 28, 29, and 30 of the

complaint in the above-entitled action.

23. In answer to the allegations contained in paragraph 31 of the complaint in the above-entitled action, these answering defendants admit that prisoners are provided with spoons to eat their meals. In further answer to the allegations contained in said paragraph, these answering defendants deny each and every other allegation not herein specifically admitted.

24. In answer to the allegations contained in paragraph 32 of the complaint in the above-entitled action, these answering defendants admit that lighting in all housing areas is controlled from the outside by jail officers and that cells are not furnished with chairs, stools, tables or desk areas and that all housing areas are windowless, and that prisoner housing at the jail consists of cells designed for 1, 2, 4 and 6 men. In further answer to the allegations of said paragraph, these answering defendants deny each and every other allegations not herein specifically admitted.

25. In answer to the allegations contained in paragraph 33 of the complaint in the above-entitled action, these answering defendants admit that, on occasion, inmates may be required to sleep on the floor and on those occasions, mattress, blankets and other sleeping materials are provided and that everything is done to find an inmate a bed as rapidly as is possible. These answering defendants further admit that toilets are located inside the cell areas. In further answer to the allegations contained in said paragraph, these answering defendants deny each and every allegation not herein specifically admitted.

26. In answer to the allegations contained in paragraph 34 of the Second Amended Complaint in the above-entitled action, these answering defendants admit that deputies, upon finding any prescribed medication on an inmate or in the

personal property of an inmate, seize the medication and notify the medical staff immediately. In further answer to the allegations contained in said paragraph, these answering defendants deny each and every other allegation contained in said paragraph which is not herein specifically admitted.

27. These answering defendants deny each and every allegation contained in paragraphs 35, 36, 37, 38, 39, 40, 41, 42 and 43 of the complaint in the above-entitled action.

28. In answer to the allegations contained in paragraphs 44, 46, 49, 52, 58, 60, 62, 64 of the complaint in the above-entitled action, these answering defendants incorporate their answers to paragraphs 1 through 43 of said complaint.

29. These answering defendants deny the allegations contained in paragraph 45 of the complaint in the above-entitled action. In further answer to the allegations contained in said paragraph, these answering defendants affirmatively allege that the presumption of innocence is statutory in California and, by statute, is solely an evidentiary presumption to be used at the criminal trial and for no other purpose. These answering defendants further allege that there are numerous alternatives available to prisoners in lieu of bail, including release on recognizance, and motions for reduction in the amount of bail, and cite-out procedures which are frequently used by arresting officers.

30. These answering defendants deny each and every allegation contained in paragraph 47 of the complaint in the above-entitled action. In further answer to allegations contained in said paragraph, these answering defendants affirmatively allege, on information and belief, that there are some inmates within the jail system who are financially able to post bail but who for various reasons cannot or choose not to post bail. These answering defendants further allege that there are numerous alternatives available to pre-trial

prisoners to obtain their release, including release on their own recognizance, motions for reduction in bail, and cite-out procedures. In further answer to allegations contained in said paragraph these defendants allege, on information and belief, that some of the named plaintiffs in this action have used these alternatives and have no standing to raise this issue. In further answer to said paragraph 47, these answering defendants affirmatively allege that there is another action pending between each alleged member of the class of pre-trial prisoners and defendants, to wit, their pending criminal trial, wherein the issue of the fairness of said prisoners' criminal trial is directly and necessarily at issue; that said prisoners have the best, most immediate means of raising such issues in said trial, that no purpose is served and no judicial economy saved by raising said issues herein. In further answer to the allegations of said paragraph 47, these answering defendants affirmatively allege that as to those former members of the class off pre-trial prisoners who have been convicted or found not guilty, and who did not, by appeal, challenge the issue off the fairness of their criminal trial, they are barred from proceeding in this action by the doctrines of res judicata and collateral estoppel.

31. These answering defendants deny each and every allegation contained in paragraph 48 of the complaint in the above-entitled action.

32. These answering defendants deny each and every allegation contained in paragraph 50 of the complaint in the above-entitled action. In further answer to the allegations contained in said paragraph, these answering defendants affirmatively allege, on information and belief, that there are some inmates within the jail system who are financially able to post bail but who, for numerous reasons, cannot or choose not to post bail. These answering defendants further

allege that there are various alternatives available to pre-trial prisoners to obtain their release, including release on their own recognizance, motions for reduction in bail, and cite-out procedures. In further answer to the allegations contained in said paragraph these defendants allege, on information and belief, that some of the named plaintiffs in this action have used these alternatives and have no standing to raise this issue. In further answer to said paragraph 50, these answering defendants affirmatively allege that there is another action pending between each alleged member of the class of pre-trial prisoners and defendants, to wit, their pending criminal trial, wherein the issue of the fairness of said prisoners' criminal trial is directly and necessarily at issue; that said prisoners have the best, most immediate means of raising such issues in said trial; that no purpose is served and no judicial economy saved by raising said issues herein. In further answer to the allegations of said paragraph 50, these answering defendants affirmatively allege that as to those former members of the class of pre-trial prisoners who have been convicted or found not guilty, and who did not, by appeal, challenge the issue of the fairness of their criminal trial, they are barred from proceeding in this action by the doctrines of res judicata and collateral estoppel.

33. These answering defendants deny each and every allegation contained in paragraph 51 of the Second Amended Complaint in the above-entitled action.

34. These answering defendants deny each and every allegation contained in paragraphs 53, 54 and 55 of the Second Amended Complaint in the above-entitled action.

35. These answering defendants deny each and every allegation contained in paragraphs 57, 59, 61 and 63 of the complaint in the above-entitled action.

36. These answering defendants deny the allegations contained in paragraph 65 of the complaint in the above-entitled action. In further answer to the allegations contained in said paragraph, these answering defendants affirmatively allege that Penal Code Section 851.5 is a penal provision of California law which may not be enforced by injunction or declaratory relief.

37. Defendants deny the allegations contained in paragraph 66 of the complaint in the above-entitled action, and in further answer to the allegations of said paragraph, affirmatively allege that prisoners confined in the jail are not arrested persons within the meaning of Section 4003 of the Penal Code.

38. These answering defendants deny each and every allegation contained in paragraph 67 of the complaint in the above-entitled action, and in further answer to the allegations contained in said paragraph, affirmatively allege that California Penal Code Section 4023 does not require a physician to be present on the premises of the facility 24 hours a day but merely requires a physician to be available to the jail at all times.

39. These answering defendants deny each and every allegation contained in paragraph 68 of the complaint in the above-entitled action, and in further answer to the allegations contained in said paragraph, affirmatively allege that plaintiffs do not have the standing nor authority to raise in this action the issues presented in said paragraph.

40. These answering defendants deny each and every allegation contained in paragraph 69 of the complaint in the above-entitled action.

41. In answer to the allegations contained in paragraph 70 of the complaint in the above-entitled action, these answering defendants admit that they have not acted illegally



or unconstitutionally toward any of the plaintiffs in this action and that they have not caused injury to any of the plaintiffs in this action. In further answer to the allegations of paragraph 70, these defendants allege that plaintiffs lack standing to assert many of the claims raised in this complaint against all of the defendants and that therefore no case or controversy exists as to these claims. In further answer to the allegations of said paragraph, these answering defendants deny each and every other allegation contained herein.

42. In answer to the allegations contained in paragraph 71 of the complaint in the above-entitled action, these answering defendants deny each and every allegation contained in said paragraph. In further answer to the allegations contained in said paragraph, these answering defendants affirmatively allege that the plaintiffs, and each of them, have a plain, speedy, and adequate remedy at law to raise each and every one of the complaints raised herein by means of a writ of habeas corpus or action for damages. In further answer to the allegations contained in said paragraph, these answering defendants affirmatively allege that each and every member of the class of pre-trial prisoners has a plain speedy, and adequate remedy for each and every one of the allegations contained in this amended complaint in that they may raise such issues quickly and easily in their pending criminal trial and that the judge therein has the power and authority to quickly remedy their grievances. These answering defendants, in further answer to the allegations contained in said paragraph, affirmatively allege, on information and belief, that many of the plaintiffs and members of the classes and subclasses have pending actions against the defendants wherein they are raising similar issues and plead such actions as a bar to their maintenance of the present action.

**AS A SECOND FURTHER AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS AFFIRMATIVELY ALLEGE:**

1. On information and belief, that the plaintiffs and numerous members of the class of persons they seek to represent either now have pending or have had pending in the past other actions against the defendants on the same similar issues and that said actions are a bar to the maintenance of the present action.

2. On information and belief, that plaintiffs and numerous members of the class of persons they seek to represent have in the past maintained actions against the defendants on issues they seek to litigate herein and that said persons are barred by the doctrines of collateral estoppel and res judicata from litigating those issues herein.

**AS A THIRD FURTHER AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS AFFIRMATIVELY ALLEGE:**

1. That insofar as the plaintiffs herein seek to require the County of Los Angeles to expend money or to seek equitable relief that in fact or as a practical matter is directed against the County of Los Angeles, this action is barred by the Eleventh Amendment and is not maintainable, pursuant to 42 U.S.C. 1983, in that the County of Los Angeles is not a person within the meaning of that statute.

**AS A FOURTH FURTHER AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS AFFIRMATIVELY ALLEGE:**

1. That insofar as plaintiffs herein seek relief which requires the expenditure of money by the County of Los Angeles, that this action is an action for damages which entitles the plaintiffs herein to a trial by jury. Defendants and each of them hereby demand a trial by jury.

**AS A FIFTH FURTHER AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS AFFIRMATIVELY ALLEGE:**

1. That presently there is a controversy between the County of Los Angeles and the State of California as to whether or not the Minimum Jail Standards of the State of California, as promulgated by the State Department of Corrections, pursuant to the authority given it by virtue of California Penal Code Section 6030, are mandatory or merely permissive and that if such Minimum Jail Standards are mandatory, the County of Los Angeles may, unless the State of California is made a party to this action, be subjected to a substantial risk of incurring inconsistent obligations by reason thereof.

2. The State of California is subject to the service of process, and the joinder of the State of California will not deprive the County of jurisdiction over the subject matter of the action, and in the absence of the State of California, the defendants herein who are already parties will be subject to a substantial risk of inconsistent obligations by reason of the claimed interest of the State of California.

**AS A SIXTH FURTHER AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS AFFIRMATIVELY ALLEGE:**

1. That defendants are not subject to equitable relief for the acts or omissions of their subordinates unless defendants directed such acts or omissions.

**WHEREFORE, defendants pray:**

1. That the Court deny certification of this action as a class action both as to the purported class of plaintiffs and classes of defendants.

2. That the Court deny declaratory relief as prayed for by plaintiffs.

3. That the Court deny the preliminary and permanent injunctions prayed for by the plaintiffs.

4. That the plaintiffs take nothing by reason of this action.

5. That the Court not retain jurisdiction over defendants or this action.

6. That the Court deny plaintiffs' attorneys fees and costs of suit herein.

7. That the Court award defendants the cost of defense herein, and

8. That the Court award such other and further relief as may be proper.

DATED: June 29, 1976

Respectfully submitted,

JOHN H. LARSON, County Counsel

By /s/ David B. Kelsey

DAVID B. KELSEY

Deputy County Counsel

Attorneys for Defendants

(Declaration of Service omitted in printing).

**Pretrial Conference Order.**

United States District Court, Central District of California.

Dennis Rutherford, Harold Taylor, and Richard Orr, et al., Plaintiffs, vs. Peter J. Pitchess, et al., Defendants. No. CV 75-4111-WPG.

Filed: June 27, 1977.

Following pretrial proceedings pursuant to Rule 16 of the Federal Rules of Civil Procedure and Local Rule 9 of this Court,

**IT IS ORDERED:**

**I. Nature of Action and Parties.**

1. This is a class action seeking injunctive and declaratory relief against the practices and conditions of confinement at the Los Angeles County Central Jail (hereinafter "Jail"), located at 441 Bauchet Street, Los Angeles, California.

2. The issues are raised in the Second Amended Complaint for Declaratory and Injunctive Relief and the Answer to Second Amended Complaint and are discussed in detail in the parties' respective Memoranda of Contentions of Fact and Law.

3. The plaintiff class is defined as all prisoners in the Jail since December 31, 1975 and contains two subclasses, the first defined as all pretrial detainees in the Jail since December 31, 1975, and the second defined as all sentenced prisoners in the Jail since December 31, 1975. Unless otherwise indicated, hereinafter prisoners shall mean members of the plaintiff class; pretrial or unsentenced prisoners shall mean members of the pretrial detainee subclass, and sentenced prisoners shall mean members of the sentenced prisoner subclass. The pretrial detainee subclass is represented by plaintiffs DENNIS RUTHERFORD, HAROLD TAY-

LOR and GREGORY ARMSTRONG; and the sentenced prisoner subclass is represented by plaintiffs RUTHERFORD, ARMSTRONG, RICHARD ORR and JACK JONES.

4. The defendants, all sued in their official capacities, are PETER J. PITCHESS, as Sheriff of the County of Los Angeles, WILLIAM ANTHONY as Assistant Sheriff of the County of Los Angeles, WALTER HOWELL, as Chief of the Los Angeles County Sheriff's Department, Custody Division, PAUL MYRON as Captain of the Central Jail, JACK HOLT, JACK B. ROBBINS and ERNEST ZANSTER as Los Angeles County Sheriff's Department lieutenants assigned to the Jail, JAMES D. AUSTIN, LeROY K. JOHNSON, GERALD BOSWELL, RICHARD HENDERSHOT, JAMES CINDERELLI, DANNY CALHOUN, STEVEN CRAWFORD, JOHN FEHRN, STEVEN GAYHART, ANTONIO SAMANIEGO, FREDERICK SYKES, JOHN WARGO and FREDERICK WEISE, as Los Angeles County Sheriff's Department Officers assigned to the Jail and as representative of a defendant class defined as all Los Angeles County Sheriff's Department officers below the rank of lieutenant assigned to the Jail, and EDWARD EDELMAN, KENNETH HAHN, JAMES HAYES, PETER SCHABARUM and BAXTER WARD, as members of the Los Angeles County Board of Supervisors.

## II. Jurisdiction and Venue.

Federal jurisdiction and venue are invoked upon the ground of claims arising under 42 U.S.C. §1983 to redress deprivations of civil rights occurring within the Central District of California and the ground of pendent jurisdiction to adjudicate related claims arising under California law.



### III. Jurisdictional Facts.

#### A. Admitted Facts.

1. All defendants to the extent they have acted herein have done so under color of State Law.
2. Plaintiffs are citizens and persons within the meaning of 28 U.S.C. §1343(3).

#### B. No Other Contentions of Fact.

### IV. Plaintiffs.

#### A. Admitted Facts.

1. Plaintiffs DENNIS RUTHERFORD, HAROLD TAYLOR and GREGORY ARMSTRONG were charged with criminal offenses under California law and during the pendency of this action were incarcerated as unsentenced prisoners in the Jail awaiting trial in California courts in Los Angeles County.

2. Plaintiff RUTHERFORD was a pretrial prisoner in the Jail from November 5, 1972 to January 23, 1976, held in lieu of bail, which ranged between \$30,000 and \$10,000. He was a convicted prisoner in the Jail from June 3, 1976 to July, 1976.

3. Plaintiff TAYLOR was a pretrial prisoner in the Jail from December 17, 1973 until August, 1976, held in lieu of \$350,000 bail.

4. Plaintiff ARMSTRONG was a pretrial prisoner in the Jail from October 4, 1975 to December 23, 1976, held in lieu of \$50,000 bail.

5. Plaintiffs JACK JONES, RICHARD ORR, ARMSTRONG and RUTHERFORD were sentenced prisoners in the Jail during the pendency of this action.

6. On March 23, 1976, the Court certified this action as a class action within the meaning of Federal Rules of Civil Procedure, Rule 23(b)(2), on behalf of a class con-

sisting of prisoners in the Jail since December 31, 1975, and two subclasses, the first consisting of all pretrial detainees in the Jail since December 31, 1975, and the second consisting of all sentenced prisoners in the Jail since December 31, 1975.

7. Unsentenced prisoners are incarcerated because they did not post bail or otherwise secure their release pending trial, and they are entitled to a presumption of innocence in their criminal cases as provided by law. After their arraignment they are confined in the Jail by judicial order solely to insure their presence at trial.

B. Plaintiffs' Contentions of Fact.

1. Whether most unsentenced prisoners are indigent and are held in lieu of bail which they cannot afford to post.

C. Defendants' Contentions of Fact.

1. Whether the claims or defenses of the representative plaintiffs are not typical of the claims or defenses of the class in that the circumstances and treatment of plaintiffs are not typical of the circumstances and treatment of inmates generally.

2. Whether the representative parties cannot fairly and adequately protect the interests of the class and subclasses in that they have not raised all claims reasonably expected to be raised by the members of the class, including claims for damages; and in that the claims and positions reasonably expected to be raised by one subclass, sentenced prisoners, are in conflict with and incompatible with the claims of another subclass, unsentenced prisoners, and that to fully and completely press the claims of sentenced prisoners necessarily requires less than fair advocacy of the claims of unsentenced prisoners; and the conditions under which present prisoners are confined are vastly different from the con-

ditions under which the representative plaintiffs were confined.

3. Whether all unsentenced prisoners are indigent.

V. Defendants.

A. Admitted Facts.

1. Defendant PETER J. PITCHES is, and at all times herein relevant has been, the duly elected Sheriff of the County of Los Angeles, California and keeper of the Jail pursuant to Government Code §26605 and Penal Code §§4000, 4005 and 4006, and as such is charged with the statutory duty of maintaining and operating county jail facilities including the Jail. He is the head of one of the largest police agencies in the world and is the chief law enforcement officer in the County of Los Angeles responsible for providing law enforcement to a population in excess of seven million people living in an area in excess of 4,000 square miles and consisting of over 5,000 sworn personnel, as well as being responsible for numerous other difficult and intractable responsibilities, including the service and enforcement of hundreds of thousands of civil processes, serving as bailiff for one of the largest court systems in the world. One of his responsibilities is the operation of one of the largest detention systems in the world which consists of seven major facilities and numerous minor facilities, and which houses over 200,000 prisoners a year and has an average daily population of over 9,000 inmates, a substantial portion of whom are within the system less than ten days. In the performance of these duties, the Sheriff reasonably and necessarily delegates responsibilities for operation of the detention facilities to others and has little direct involvement in its daily operation, policies and procedures. In the furtherance of the delegation of these responsibilities, responsibilities are delegated to an undersheriff, two assistant

sheriffs, eight divisions headed by division chiefs, numerous inspectors and hundreds of other supervisory personnel.

2. Assistant Sheriff WILLIAM J. ANTHONY is charged with the overall supervision of the Sheriff's Custody Division and other divisions and is third in command of the Sheriff's Department under the direct supervision of Undersheriff Sherman Block, who is not a defendant in this action. In the performance of his duties, Assistant Sheriff ANTHONY necessarily and reasonably delegates responsibilities for operation of the jails to a division chief, four inspectors, who are not defendants in the action, and numerous other subordinates not all of whom are defendants in this action. He has been delegated supervisory responsibilities for maintaining and operating county jail facilities, including the Jail.

3. WALTER HOWELL is the Chief of the Custody Division of the Sheriff's Department and as such is responsible for supervision of all detention facilities within the Sheriff's Department, including seven major facilities, numerous smaller facilities, and the detention facilities at each of the Sheriff's substations. In the performance of his duties, Chief HOWELL necessarily and reasonably delegates responsibilities to four inspectors, who are not defendants herein, and numerous other subordinates, not all of whom are defendants herein. He has been delegated supervisory responsibility for maintaining and operating county jail facilities, including the Jail, and for promulgating rules for the care and treatment of prisoners in the jail.

4. Defendant PAUL MYRON is Captain of Central Jail and has been since approximately February of 1977. He replaces Captain Farrell, Captain White and Captain Wheatley, who were former defendants in this action. Pursuant to the Federal Rules of Civil Procedure, Rule 25(d), Captain Myron has been automatically substituted as defendant

herein. In the performance of his duties, Captain MYRON reasonably and necessarily delegates his responsibilities for the operation of the jail to numerous subordinates, not all of whom are defendants herein. He has been delegated direct supervisory responsibility for the administration of the Jail.

5. JACK HOLT, JACK E. ROBBINS and ERNEST ZANSLER are lieutenants of the Los Angeles County Sheriff's Department and as such have been delegated supervisory responsibility with regard to managing and administering the Jail.

6. Deputy Sheriffs and defendants JAMES D. AUSTIN, LEROY K. JOHNSON, GERALD BOSWELL, RICHARD HENDERSHOT, JAMES CINDERELLI, DANNY CALHOUN, STEVEN CRAWFORD, JOHN WARGO are currently Los Angeles County Sheriff's Department Officers assigned to Central Jail. As such, they carry out directives and policies of the Jail and have been assigned specific duties with regard to the everyday operations of the Jail and the control of certain prisoners.

7. Defendant JOHN FEHRN was and defendants and Deputy Sheriffs STEVEN GAYHART, ANTONIO SAMANIEGO, FREDERICK SYKES and FREDERICK WEISE are Los Angeles County Deputy Sheriffs. All said defendants were at the time of service of the Second Amended Complaint, but no longer are, assigned to the Jail, and as such carried out the directives and policies of the Jail and were assigned specific duties with regard to the everyday operations of the Jail and the control of certain prisoners. Defendants FEHRN, SAMANIEGO, SYKES and WEISE were no longer assigned to the Jail after the following dates in 1976, respectively: December 25, October 23, December 18 and December 18.

8. Defendants EDWARD EDELMAN, KENNETH HAHN, JAMES HAYES, PETER SCHABARUM and

BAXTER WARD are and at all times relevant herein have been the duly elected and acting members of the Board of Supervisors of the County of Los Angeles.

9. Defendants are all sued in their official capacities.

B. Plaintiffs' Contentions of Fact.

1. Whether defendants AUSTIN, JOHNSON, BOSWELL, HENDERSHOT, CINDERELLI, CALHOUN, CRAWFORD, FEHRN, GAYHART, SAMANIEGO, SYKES, WARGO and WEISE are representative of a class within the meaning of Federal Rules of Civil Procedure, Rule 23(b)(1) consisting of all Los Angeles County Sheriff's Department officers below the rank of lieutenant, assigned to the Jail.

2. Whether the acts and omissions herein described were committed and conditions herein described were maintained by defendants personally and through actions of their agents, and subordinates, acting pursuant to defendants' instructions, directions, encouragement, and/or known acquiescence.

C. Defendants' Contentions of Fact.

1. Whether defendants EDELMAN, HAHN, HAYES, SCHABARUM and WARD have only limited supervisory responsibilities over the Sheriff of the County of Los Angeles which is shared with the State Attorney General of the State of California and cannot direct the performance of the Sheriff's duties.

2. Whether at no time have defendants done any acts or omissions directly or personally which are illegal or enjoined in this action.

3. Whether all rules and policies promulgated by defendant HOWELL and/or MYRON that involve the plaintiff class are valid, legal and constitutional.



4. Whether there is no present existing basis for injunctive relief as to defendants FEHRN, GAYHART, SAMANIEGO, SYKES and WEISE.

#### IV. Jail Population.

##### A. Admitted Facts.

1. The Jail's stated capacity established by the California Board of Corrections is 5548, consisting of 5098 non-medical beds and 450 hospital beds.

2. The proportion of unsentenced prisoners, sentenced prisoners facing no additional criminal charges and prisoners sentenced under one or more convictions and awaiting trial on one or more additional criminal charges varies from time to time, but at the present are approximately 65% unsentenced, 22% sentenced facing no additional charges and 13% sentenced facing additional charges.

##### B. No Other Contentions of Fact.

#### V. Mail.

##### A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to legal and non-legal mail is as set forth in pre-marked Exhibits Z (pp. 47-48), A (pp. 58-59), D (pp. 1-2), E (pp. 1-2) and BO.

##### B. Plaintiffs' Contentions of Fact.

1. Whether notwithstanding the stated written policy out of the presence of prisoners, defendants open and sometimes read prisoners' legal mail to and from attorneys, courts and public officials.

2. Whether notwithstanding the stated written policy out of the presence of prisoners, defendants open and sometimes read and censor prisoners' incoming and outgoing mail, and do not provide the affected prisoner or sender with notice of or opportunity to contest that censorship.

**C. Defendants' Contentions.**

1. Whether there are serious, compelling and legitimate institutional concerns preventing the introduction of contraband into the jail through the use of mail, and procedures designed to accomplish this in an expeditious manner compatible with prompt delivery of mail and minimalization of these concerns is appropriate and proper.

**VI. Telephone Calls.**

**A. Admitted Facts.**

1. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to telephone calls by prisoners is as set forth in pre-marked Exhibits BN, Z (p. 15), A (p. 60), F and G.

2. Six telephones are located on each floor of the original Central Jail facility adjacent to the inmate modules, in the hospital, and six telephones are located within each of the regular housing modules in the new addition to the jail and two telephones are located within each of the disciplinary/segregation modules in the new addition to Central Jail. Telephones are also located within the pro per law library and within the non pro per law library.

3. Defendants do not permit prisoners to receive incoming telephone calls except in emergencies or other unusual circumstances.

**B. Plaintiffs' Contentions of Fact.**

1. Whether notwithstanding the stated written policy defendants deny prisoners reasonable access to telephones to make outgoing calls, after the booking process is completed only allow prisoners to make phone calls from within the Jail through Court orders or infrequently granted permission from Jail officers, and limit the length of telephone calls to five minutes.

**C. Defendants' Contentions.**

1. Whether as defendants contend: Central Jail policy permits prisoners reasonable access to telephones to make outgoing calls; all inmates are entitled to at least two or more free telephone calls within the local dialing area when booked and before certain proceedings; additional calls are permitted at booking when appropriate; and the opportunity for telephone calls for emergency purposes may be requested at any time from the module officer, the senior deputy on the floor, or from the chaplain.

2. Whether as defendants contend: Inmates are permitted to use the telephones on a rotation basis throughout the day and night; and it is the Central Jail policy that the prisoners are given access to these phones as much as possible without interfering with normal procedures and that each inmate receive a fair opportunity to make telephone calls.

3. Whether as defendants contend: Incoming telephone calls are not routinely permitted but are permitted only in emergencies or unusual circumstances; and permitting incoming telephone calls is not feasible in light of the number of inmates detained, the arrangement of the jail and the administrative and logistical problems of timely locating inmates.

**VII. Visitation.**

**A. Admitted Facts.**

1. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to prisoner visitation is as set forth in pre-marked Exhibits A (pp. 60-61), and B (pp. 29-30).

2. Inmates are permitted daily visits with adults and children between the hours of 8:30 a.m. and 8:30 p.m. The number of visits at Central Jail currently averages over 2,000

a day and over 63,000 a month.

3. Pretrial prisoners are allowed one daily 20 minute visit, and sentenced prisoners are allowed one daily 60 minute visit.

4. Physical contact between prisoners and visitors is not routinely permitted.

5. Some sentenced prisoners confined at some of defendants' detention camps, some Federal and California prisons, and some jail facilities in other counties are permitted to have some physical contact with their visitors.

#### B. Plaintiffs' Contentions of Fact.

1. Whether defendants deny prisoners reasonable opportunity to visit with family and friends.

2. Whether most sentenced prisoners at Federal and California prisons and at jail facilities in Los Angeles County are permitted to have physical contact with their visitors, including embracing, kissing, holding hands and holding children.

#### C. Defendants' Contentions of Fact.

1. Whether as defendants contend: To accommodate visitation, there is a large, modern, air-conditioned visiting area designed to accommodate approximately 228 visitors at a time; this visiting area is generally in constant use throughout the day; visiting areas are arranged in corridors designed to minimize noise between rows, and small privacy partitions are located between each visiting location to likewise reduce noise and provide some element of privacy; visitors and the inmates they are visiting may view each other through large, clear glass panels and may speak over modern, well-maintained telephones; an area to sit and a shelf is provided on both the inmate and visitor side for convenience and comfort. No direct supervision of each

visitor or inmate during the visiting period is routinely done or required; a timing device connected to each visiting area insures that each inmate receives his full allotment of time for visiting; and inmates and visitors are not generally subjected to searches before or after visits.

2. Whether as defendants contend: Contact visits are not and cannot be permitted at Central Jail without causing unacceptable risks of harm to inmates, visitors and personnel, and unacceptable breaches of the facility's security; there are no rooms or facilities within Central Jail that are feasible for conversion to contact-type visits even if the security risks were not present; and if a location for such visits could be located and if the security risks were not present, the number and frequency of visits permitted inmates would have to be considerably diminished and embarrassing or other searches of visitors and inmates would be required on at least a frequent or random basis.

#### VIII. Reading Matter.

##### A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to prisoners' access to and receipt of reading matter is as set forth in pre-marked Exhibits BX, A (p. 89), H, I, J and K.

2. There is an extension of the Los Angeles County Library located at the original Jail facility containing about 5000 volumes.

##### B. Plaintiffs' Contentions of Fact.

1. Whether defendants drastically limit prisoners' access to reading matter, including newspapers, magazines and books by failing to provide prisoners with an adequate selection of reading matter, by permitting prisoners only infrequent, indirect access to available reading matter, by

prohibiting prisoners from receiving reading matter from visitors, and by prohibiting prisoners, from receiving reading matter through the mail.

C. Defendants' Contentions of Fact.

1. Whether as defendants contend: Inmates at Central Jail have reasonable access to reading materials; paperback books, magazines and newspapers are sold in the modules from the jail commissary cart; the books so sold include best sellers and other books selected on the basis of popularity; at any one time, there are, in addition, about 50 library and other books within each module that may be exchanged between prisoners; and visitors may deliver books and magazines to inmates after visits.

2. Whether as defendants contend: The extension of the Los Angeles County Law Library located within the Jail is not large enough to permit all inmates direct access to it; and the system was designed to give inmates access to the library by means of a library cart which is taken to each row on the old side of the Jail about every ten days.

3. Whether as defendants contend: Although not yet fully operational, a new 12,000 volume extension of the County library system will be opened on the fourth floor of the new addition to the Jail; the structure of the new addition to the Central Jail and the way it was designed and the space available in the new library facilities will not feasibly permit inmates to visit the library directly; the books will be distributed from that library by means of a cart as is now the practice on the old side of the Jail; when this library is fully operational, the cart from each of the jail library facilities will visit each module approximately once a week; and in the meantime, the Jail librarian distributes free paperbacks, which need not be returned, to the inmates in the new addition to the Jail.



**IX. Recreation.**

**A. Admitted Facts.**

1. Unsentenced prisoners who are not trustees do not presently have the opportunity for outdoor exercise and recreation.

2. Only working trustees presently receive an opportunity for outdoor recreation.

3. The Jail has been designed to permit at least two hours a day of freeway or dayroom time, one hour each on the day and evening shifts.

**B. Plaintiffs' Contentions of Fact.**

1. Whether defendants deny prisoners adequate opportunity to exercise and recreate outdoors.

2. Whether defendants deny pretrial prisoners reasonable opportunity to divert themselves indoors in that pretrial prisoners are locked in their cells or infirmary wards or rooms at all times except when specified business, such as court appearances, medical care, meals, attorney interviews, personal visits, shower, chaplain consultations, and educational classes otherwise require, such prisoners are only infrequently allowed to use dayrooms adjacent to their cell-blocks or infirmary wards or rooms, and said dayrooms are barren of recreational equipment, including televisions, radios, games and reading matter.

**C. Defendants' Contentions of Fact.**

1. Whether as defendants contend: Between approximately 15-30% of the pretrial inmates are transported to court each weekday, a process which usually takes 5-10 hours; about 40-50% of the entire Jail population, both sentenced and unsentenced, have a visit each day; a process which takes about an hour or more; and presently, 200 or so of the pretrial inmates are trustees who are involved in

work assignments during the day and presently have access to dayrooms and television.

2. Whether as defendants contend: Throughout the day, most inmates whose classifications permit them to mix with other inmates can go by request to such activities as school, Bible study, visits to the chaplain, and other activities; such inmates could, if they desire, spend up to several hours a day at school; and as indicated earlier, there are about 43 pay telephones available to pretrial inmates for use throughout the day.

3. Whether as defendants contend: Because of the move into the new addition and the new personnel involved, and the difficulties of working out problems concerning the new policies and the need to recruit and train additional personnel, this practice has not yet been uniformly accomplished in every module; and even at present, however, inmates in each module receive about one hour a day of freeway time.

4. Whether as defendants contend: Only working trustees at present receive an opportunity for outdoor recreation; although the new jail addition includes a large outdoor recreation area, defects in its construction and the need to fix responsibility for such with the contractor; as well as administrative and logistical problems associated with the opening of the new addition to Central Jail and the need to recruit and train additional personnel have precluded present use of such facilities; when such problems are solved, it should be possible to permit those inmates the opportunity for at least one hour a week of outdoor exercise in addition to freeway time and other recreational activities.

5. Whether increased opportunities for freeway time and outdoor recreation create increased risks of thefts of personal property, tensions, and assaults which cannot be significantly reduced even with substantial increases in

supervising personnel.

6. Whether as defendants contend: The Jail is presently implementing a new classification system which is the result of several years of study and planning; present indications are that when fully implemented, such classification system may permit the classification of significant numbers of pre-trial inmates as minimum security, low moderate security, moderate security, high moderate security, and only a small number as maximum security; present data suggests that when implemented, such a classification system may ideally permit those pretrial inmates classified as minimum security to qualify for dormitory housing and permit travel about the jail on an unescorted basis; those classified as low moderate to have relative free movement in cellblocks and open day-rooms, if possible; those classified as moderate to have constant access to the freeway, and possible access to the adjoining dayroom in the new modules and permit travel about the jail without escorts; those inmates classified as high moderate to have constant use of the freeway area; and those classified maximum have access to the freeway area on a limited basis and to require escorts; until the system is fully implemented and tested, no firm commitments can be made; and defendants hope to have sufficient data within six months.

7. Whether as defendants contend: All inmates, pretrial and sentenced, if they wish, may participate in educational classes at Central Jail; classes are presently offered for over 170 hours a week and will be expanded in fiscal year 1977-78; classes are offered in General Educational Development Equivalency Certificates, health/science education, English and Spanish as a second language and vocational classes for sentenced inmates; the courses are provided by the La Puente Independent School District by qualified instructors; in 1974 over 17,400 inmates participated in these classes

and the number has increased this year and will increase further next year; in 1974 over 145,000 student hours of education were provided at Central Jail and the number is increasing; between 7 and 12% of the entire pretrial population participates in the educational program at any one time; and counseling services are also provided.

#### X. Housing

##### A. Stipulated Facts.

1. The cell designations, the number of men per cell, the number of cells, the size of each cell in square feet, the size of the adjoining freeway in square feet, the size of the dayroom to which the cell area is assigned, and the square footage per prisoner at rated capacity for all of the Jail's non medical housing area are as set forth in Schedule A, attached hereto and incorporated herein by reference.

##### B. Plaintiffs' Contentions of Fact.

1. Whether defendants confine pretrial prisoners under conditions lacking in privacy or sensitivity to basic human needs; and as a rule, pretrial prisoners are housed in overcrowded cells in which excess prisoners must sleep on the floor, sometimes without a mattress, whereas single cells, which afford a modicum of privacy, are used only for sentenced trustees, for discipline and administrative segregation or for prisoners exhibiting agitated behavior, and dormitories, which afford greater freedom of movement and living space, are used only for sentenced trustees.

2. Whether all one, two, four, six, eight and ten man cells contain one toilet, one wash basin and one fountain and a number of beds equivalent to their rated capacities.

3. Whether housing in the Jail's infirmary consists of the following:

(a) One 48-bed ward, 54 feet wide and 56.6 long;

- (b) Six 10-bed wards, each 38 feet long and 19.5 feet wide;
- (c) Two 8-bed wards, each 34 feet long and 19 feet wide;
- (d) Four 5-bed wards, each 32.3 feet long and 11.6 feet wide; and
- (e) 122 one-bed rooms, each 12.4 feet long and 7.10 feet wide.

C. Defendants' Contentions of Fact.

1. Whether most cells are equipped with toilet facilities, wash basins, fountains, desks, seats and beds, sufficient for the number of inmates for which it was designed and rated.

2. Whether as defendants contend: The recommended and actual practice of most jails is to install sanitary facilities consisting of a toilet and wash basin in each cell; and the installation of such sanitary facilities in each cell results in significant custodial and medical benefits, has been approved by the State Board of Corrections, never found to present a health or sanitation problem by the Health Department, and does not present a significant medical liability.

XI. Views to the Outside.

A. Admitted Facts.

1. There are no windows and open areas through which prisoners may view the outside, and former windows on the old side of the Jail have been sealed.

B. Plaintiffs' Contentions of Fact.

1. Whether defendants deny prisoners a reasonable view to the outside world and have covered over previously existing windows in the Jail without adequately exploring alternatives which accommodate both Jail security and prisoner needs.

**C. Defendants' Contentions of Fact.**

1. Whether reopening the former windows at Central Jail or attempting to create windows in the new addition to the Jail presents unacceptable security risks, is incompatible with the environmental control system in use at the Central Jail and fire code provisions, and presents a health hazard and is too costly in light of the limited benefits to the inmates.

2. Whether, as defendants contend: The original Central Jail facility, first occupied in 1963, was designed and built with clear windows in most cell blocks, all dayrooms and hospital rooms; the Fire Department required that these windows be wired glass and would not permit the use of other types of nonbreakable window materials because, when heated, they tend to break and create drafts that cause an increased fire hazard within a building such as Central Jail; the windows contained six inch by nine inch panes housed in special security window frames designed to prevent escapes, were of the type recommended as standard window frames for maximum security institutions to provide reasonable security against escape, and were located eight feet from the nearest prisoner housing area; during the first six months of operation of the Jail, at least one-third of these windows were broken by inmates; the broken windows interfered with the security of the facility, hampered the controlled air circulation and were unsightly; various other non-breakable transparent materials were considered but were not approved by the Fire Department, which contended they created unreasonable fire hazards; allegedly tamper-proof stainless steel security screens of the type generally used in mental institutions were then installed; within a month after their installation, many of the screens were destroyed and ripped by inmates and proved wholly unsatisfactory; inmates were able to obtain hacksaw blades, weapons, narcotics, and other contraband through the broken security screens



with the assistance of confederates outside the jail; and several escapes and escape attempts occurred.

3. Whether as defendants contend: Next, fourteen-gauge steel plates were fixed to the inside of the windows using tamper-proof screws initially and later welding them in place; on numerous occasions, inmates were able to rip down and remove these steel plates; several escapes and escape attempts occurred; and bars were installed over the outside of the windows; nevertheless, inmates were able to saw through these bars and on several occasions, escape attempts continued.

4. Whether as defendants contend: When the determination to build the Jail was made, it was decided that the most helpful environment could be maintained by the use of an environmental control within the facility that would control the temperature of the air, its humidity, circulation, as well as provide cleaning and filtering; effective use of such a full environmental control system necessitated minimizing all effective leaks of air from the system; and because of the serious threat to the security of the facility presented by the window openings, and the inability to secure them and prevent air leaks, the contractor for the new addition to the jail installed precast concrete window enclosures over the existing window openings and the new jail was designed and built without windows.

5. Whether as defendants contend: There is no known method by which the existing building could be made secure if the windows were reopened; and moreover, the estimated costs of reopening these windows even if attempted is in excess of a million dollars and would still present security problems as well as create a health problem due to the inefficiency of the environmental control system in use in the jail.

## **XII. Searches.**

### **A. Admitted Facts.**

1. Defendants periodically search cellblocks, particularly those occupied by pretrial prisoners, sometimes in the absence of the prisoner-occupants.

2. Searches of inmate property are necessary to maintain the security of the facility, prevent escapes, maintain order, and minimize the potential for injury to inmates and staff.

3. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to searches of prisoners housing areas and property is as set forth in pre-marked Exhibits BR, BO, A (pp. 18, 31-32), CC and DD.

### **B. Plaintiffs' Contentions of Fact.**

1. Whether notwithstanding the stated written policy defendants periodically and systematically ransack cells, particularly those occupied by pretrial prisoners, in the absence of the prisoner-occupants.

2. Whether notwithstanding the stated written policy whether during these ransackings, commonly known as "shakedowns", officers first remove all prisoners to an adjacent dayroom and then tear apart cells, throw prisoners' property all over the cells and confiscate prisoner property without providing prisoners any receipt or notice of or opportunity to contest confiscation.

### **C. Defendants' Contentions of Fact.**

1. Whether cell searches are infrequently conducted at Central Jail.

2. Whether searches at Central Jail are conducted in accordance with procedures which are designed to minimize interference with prisoners and their property, prevent the loss or destruction of prisoner property, and maintain confidentiality of prisoners' legal materials.

XIII. Meals.

A. Admitted Facts.

1. The length of meals in the dining hall within Module 1700-1750 provided to prisoners representing themselves *in propria persona* is not at issue herein due to the judgment in *Brown v. Pitchess*, Los Angeles Superior Court, No. 24464.

B. Plaintiffs' Contentions of Fact.

1. Whether defendants deny prisoners, particularly pre-trial detainees, sufficient time to eat their meals.

XIV. Opportunity to Sleep.

A. Admitted Facts.

1. Normal lights are on in prisoner housing areas from about 5:00 a.m. to about 10:00 p.m.; and lower wattage lights, varying in intensity from cell area to cell area, are kept on through the night.

B. Plaintiffs' Contentions of Fact.

1. Whether defendants deny prisoners, particularly pre-trial prisoners, sufficient opportunity to sleep in that bright lights within the cells remain on from about 5:00 a.m. to late evening daily, prisoners must stand for daily counts, and the Jail's Officers make continuous noises with the intercom system.

C. Defendants' Contentions of Fact.

1. Whether dim, low-wattage night lights are necessary to maintain security and prevent assaults.

XV. Court Transportation.

A. Admitted Facts.

1. Each weekday the Sheriff transports between 700 and 1,000 inmates to 26 separate jurisdictional courts located over the wide expanse of the County of Los Angeles.

2. After breakfast and the opportunity to shave and do other personal items, prisoners going to court are given an opportunity to change into their own clothes for court. They are then processed for court, segregated into groups according to the court they are going to and are loaded on appropriate buses beginning at 7:00 a.m.; they are transported to the various court facilities arriving there between 8:00 a.m. and 8:30 a.m. as decided by the particular court.

3. Buses from courts generally begin returning in the early afternoon between 12:00 p.m. and 4:00 p.m., bringing back inmates who have already finished their court appearances. On a daily basis prisoners returning from court arrive at the Jail at 6:00 p.m. or later and are sometimes not returned to their housing areas until 8:00 p.m. or later.

#### B. Plaintiffs' Contentions of Fact.

1. Whether defendants subject prisoners going to court to a harsh, exhausting routine which jeopardizes their right to a fair trial.

2. Whether on days they go to court, prisoners are awakened before 5:00 a.m. and then spend their days in a series of crowded holding tanks within the Jail and court-houses and on buses taking them to and from the courts without being provided with adequate meals.

3. Whether prisoners returning from court frequently do not reach their housing areas until 8:00 p.m. or later.

#### C. Defendants' Contentions of Fact.

1. Whether as defendants contend: None of the defendants have any control over the times that the judges of the various courts require the Sheriff to have prisoners at the various courts; most courts require the Sheriff to have inmates at the court between 8:00 a.m. and 8:30 a.m. and sometimes keep the inmates in court well after 6:00 p.m.;

and the Sheriff cannot retain custody of the inmates from the courts each day until the judges of the courts provide the Sheriff with valid commitment orders for the inmates.

2. Whether as defendants contend: Several of the courts conduct night courts and require the Sheriff to bring inmates for such night courts; such night courts are held on Mondays; and when an inmate goes to night court, he is not transferred to court until 11:30 a.m. and may not be done with court until 9:00 p.m. or 10:00 p.m.

3. Whether inmates going to court are awakened at the same time as other inmates in the Jail, approximately 5:00 a.m.

4. Whether as defendants contend: Additional transportation runs throughout the day are made between the courts and Central Jail as buses become available and as the need arises; the final pick up of prisoners at each court is made when the last prisoner at that court is finished and the commitment orders from that court are given to the Sheriff; although the times inmates are finished at each court varies from day to day depending on the number of inmates at the court and whether a particular judge has held a late court, the last inmate is done at most of the courts between 4:00 p.m. and 7:00 p.m.; except Mondays when some courts hold night court, most inmates on most days are returned to the Jail before 8:00 p.m.; on Mondays when some courts hold night court until as late as 9:00 p.m. or so at night, inmates who were not transported to such courts until 11:30 a.m. may not get back to the Jail until 9:30 to 10:30 p.m.; and on rare occasions because of unusual circumstances, such as an equipment breakdown or other infrequent occurrences, an inmate has not gotten back to the Jail until as late as 11:00 p.m.

## XVI. Prisoners' Property.

### A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to prisoners' possession of property is as set forth in pre-marked Exhibits Z (pp. 1, 2, 9, 10, 50-53), A (pp. 14, 71, 73-74), B (p. 31), AE, AO, AP, AQ, AR, AS, AT, AU and AV.

2. A commissary cart visits each cell area and offers for sale personal hygiene items, stationery, reading material, candy and numerous other items.

3. Items sold from the commissary cart are as set forth in pre-marked Exhibit CQ.

4. The Jail Chaplain is responsible for the dissemination to indigent prisoners of their personal hygiene items, stationery, stamps and other items.

5. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to providing indigent prisoners with certain free items is as set forth in pre-marked Exhibits A (p. 87) and B (p. 12).

### B. Plaintiffs' Contentions of Fact.

1. Whether defendants unduly restrict the items that prisoners may possess within the Jail and routinely confiscate prisoners' personal belongings including but not limited to, correspondence and photographs.

2. Whether defendants deny prisoners an adequate opportunity to obtain from family and friends or to purchase at the Jail commissary necessities and amenities of life, such as soap, toothbrush, toothpaste, comb, deodorant, paper and pencils; and fail to provide indigent prisoners with such items.

3. Whether defendants unduly restrict plaintiffs' opportunities to obtain fresh street clothing for their court



appearances and as a consequence plaintiffs' clothing frequently becomes soiled, smelly and wrinkled during the course of a trial.

C. Defendants' Contentions of Fact.

1. Whether indigent inmates are provided personal hygiene items, stationery, stamps and other items within a few hours after submitting a written request therefor.

XVII. Hygiene and Sanitation.

A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to providing prisoners fresh Jail clothing is as set forth in pre-marked Exhibits A (pp. 64-65), B (p. 43), AA and BS.

2. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to sanitation is as set forth in pre-marked Exhibits CB, A (pp. 25-27, 48, 70) and BD.

3. Prisoners are required to clean and maintain their own housing areas; a standard institutional issue of clothing for inmates includes but is not limited to clean socks, clean undergarments, clean outer garments; an inmate's undergarments may be substituted for the institutional undergarments.

B. Plaintiffs' Contentions of Fact.

1. Whether the defendants deny prisoners, particularly pretrial prisoners, reasonable facilities and materials with which to launder their clothing, including undergarments.

2. Whether defendants frequently deny prisoners, particularly pretrial detainees, adequate opportunity to bathe.

3. Whether defendants deny prisoners, particularly pretrial prisoners, reasonable opportunities to obtain fresh jail clothing and linens.

4. Whether defendants fail to take adequate measures to preserve sanitation and prevent the spread of contagious diseases, thereby threatening the health of prisoners.

C. Defendants' Contentions of Fact.

1. Whether as defendants contend: All inmates have the opportunity for at least three showers a week; and hot and cold running water and soap are available in all housing areas.

2. Whether the Sheriff Department policy requires that each facility maintain a sufficient supply of clothing and bedding for normal and emergency requirements of the inmates.

3. Whether as defendants contend: Each inmate is provided one clean serviceable mattress, one clean sheet or mattress cover, one towel, one or more blankets depending upon climatic conditions; these items are freshly laundered and sanitized after each use and issued at the time of booking to each inmate; washable items such as sheets, mattress covers and towels are exchanged for clean replacements at least each week; and blankets are laundered or dry cleaned at least every three months or more often if necessary.

4. Whether prisoners' jail outer garments are exchanged at least once a week or more frequently if work, climatic conditions or illness require.

5. Whether inmates are provided with suitable footwear if the inmate's personal shoes are inappropriate for the facility or if no shoes were worn at the time of arrest.

6. Whether as defendants contend: All pretrial inmates are allowed one complete, non-institutional clothing exchange; exchanges consist of shoes, outer garments and a wrap (coat, sweater, etc.); and all additional clothing exchanges are handled by special request.

7. Whether each housing area is equipped with hot and cold running water and inmates are provided with laundry soap.

8. Whether as defendants contend: The facility is and has been found by the Health Department and the State Board of Corrections to be maintained in a clean and sanitary manner; floors are swept and mopped daily; bars are dusted daily and washed weekly; garbage and trash receptacles are emptied and sanitized at least once a day; and toilets, urinals, sinks and basins are cleaned daily.

9. Whether in conjunction with the medical staff, the facility has developed and implemented procedures for the treatment of vermin within the housing areas.

10. Whether staff are assigned to conduct weekly health and maintenance inspections of the facility.

11. Whether prisoners are provided materials to clean and maintain their own housing areas.

#### XVIII. Temperature.

##### A. Admitted Facts.

1. The Jail has a full environmental control system which is designed to regulate temperature, humidity and ventilation and to cleanse the air.

##### B. Plaintiffs' Contentions of Fact.

1. Whether defendants fail to maintain the Jail's temperature control system in working order; and temperatures within the Jail are frequently too hot or too cold, thereby causing a threat to the health of prisoners.

#### XIX. Access to the Courts.

##### A. Admitted Facts.

1. All sentenced prisoners have access to a law library found adequate in accordance with the decision brought on behalf of all Los Angeles County Jail sentenced inmates in

the case of *Bailey v. Pitchess*, U.S.D.C. No. 72-1957-F.

2. Access to the courts for prisoners representing themselves *in propriis personis* is not an issue herein due to the judgment in *Brown v. Pitchess*, Los Angeles Superior Court No. C 24464.

3. All pretrial inmates who are not pro pers have either a court-appointed lawyer or a private attorney.

4. Public Defenders are empowered to and do occasionally upon the order of the court or upon request of the person involved represent persons who are not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudications, of treatment, or of punishment resulting from criminal or juvenile proceedings. See California Government Code §27706.

5. Inmates are not precluded from seeking legal assistance from other inmates with whom they come into contact.

6. Prisoners other than pro pers do not have access to typewriters.

#### B. Plaintiffs' Contentions of Fact.

1. Whether defendants deny pretrial prisoners access to the courts by failing to provide such prisoners with reasonable access to an adequate law library and other necessary materials, such as writ forms, typewriters, typing papers, legal pads, and pencils, by prohibiting prisoners from receiving law books and legal materials from outside sources and by denying prisoners reasonable opportunities to obtain assistance from other prisoners who are relatively sophisticated in matters of law, commonly known as "jailhouse lawyers."

C. Defendants' Contentions of Fact.

1. Whether legal paper and supplies are sold from the Jail commissary cart.
2. Whether Habeas Corpus forms are provided to inmates.
3. Whether inmates may receive law books and legal materials from visitors and outside sources.

XX. Jail Rules and Discipline.

A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail regarding discipline is as set forth in pre-marked Exhibits CF, Z (p. 20), A (pp. 75-84), B (p. 38), N, O, P, Q and R.
2. During the Jail's disciplinary process accused prisoners are not normally allowed to cross-examine or call witnesses.

B. Plaintiffs' Contentions of Fact.

1. Whether defendants' rules and regulations which govern operation of the Jail and the actions and practices of officers and prisoners are not posted throughout the Jail and are not made available to all prisoners; and many prisoners are ignorant of the Jail's rules and regulations.
2. Whether many of the Jail's rules are unconstitutionally vague — giving no adequate notice of the conduct they are intended to prevent — and are selectively enforced by defendants; and other rules governing pretrial prisoners' conduct are petty and irksome and amount to excessive invasions of personal privacy.
3. Whether some rules are enunciated by officers on an *ad hoc* basis, frequently after an "offense" has allegedly occurred; and these rules necessarily vary from officer to officer, according to his mood and/or feelings towards the

prisoners involved.

4. Whether standardized punishments exist for violation of Jail rules.

5. Whether entire groups or housing areas of prisoners are punished for an infraction allegedly committed by one of their number.

6. Whether punishment includes loss of privileges, forced labor and solitary confinement.

7. Whether punishment may be levied for an indefinite period of time.

8. Whether defendants impose punishment upon prisoners without adequate notice or fair hearing or opportunity for prisoners to speak on their own behalf, confront their accusers, or otherwise contest the charges against them.

9. Whether for purposes of punishment defendants confine prisoners not only in disciplinary isolation cells but also in administrative segregation, protective custody, medical restraint cells and medical isolation cells, without even the pretense of due process.

#### C. Defendants' Contentions of Facts.

1. Whether as defendants contend: The Central Jail disciplinary procedures comply with the requirements of due process and contain adequate safeguards against erroneous action; printed rules are distributed to each inmate at the time of booking into the facility; the rules are printed both in English and Spanish; when an inmate is accused of violating a jail rule and if disciplinary actions are initiated, the inmate receives both oral and written notice of what he is accused of; the observing officer often orally informs the inmate of what he is accused, talks to the inmate, and conducts an appropriate investigation; if the incident is minor, the officer may merely admonish the inmate; if the observing officer believes that further action is appropriate,



the senior deputy is notified; the senior deputy again advises the inmate of what he is accused of, interviews him and listens to whatever defense he has and conducts an investigation; if the senior deputy believes further action other than admonishing is appropriate, the inmate is given a written notice of what he is accused of which informs him in English and Spanish of his potential punishment and that he will be given a hearing before a disciplinary review board and an opportunity to present a defense; the observing officer's version of the facts are placed upon an inmate incident report by the senior deputy and the inmate's version or defense is also recorded thereon and the senior deputy makes a recommendation as to the appropriate sanction, if any; the inmate incident report is then forwarded to a sergeant who reviews the inmate incident report and who may, if appropriate, talk to the inmate again, conduct a further investigation, and has the discretion to overturn or modify the recommended sanction; the inmate incident report is then forwarded to the watch commander who has the discretion to talk to the inmate, conduct an additional or further investigation, and to overturn or modify the recommendation for appropriate sanction.

2. Whether as defendants contend: If the watch commander agrees that some sanction involving loss of privileges should occur, the inmate incident report is forwarded to the disciplinary review board; the disciplinary review board has the inmate brought before it and informs the inmate again of what he is accused of and what the officers have said in their report; the disciplinary review board determines that the inmate is competent to present a defense and marks this determination on the form given to the inmate; the inmate is given an opportunity to present a defense and the matter is discussed with the inmate; if the inmate indicates that there are other persons or evidence that may

clear him, the disciplinary review board conducts further investigation; and the disciplinary review board makes a determination as to whether the accusation is founded or unfounded and so indicates in writing on a form given to the inmate.

3. Whether the inmate incident report, together with the findings, are forwarded to the facility commander who has the discretion to conduct a further investigation or overturn any decision.

4. Whether as defendants contend: The inmate may, in addition, send a sealed written letter of grievance to the facility commander; and the disciplinary review board follows a written standard of appropriate standardized punishments.

5. Whether as defendants contend: The disciplinary sanctions potentially available are not onerous; by state law, disciplinary reviews are limited to loss of privileges, and assignment of extra duties, (Minimum Jail Standards, Title 15, California Administrative Code, §1172, "Forms of Discipline"); state law prohibits disciplinary segregation for periods in excess of ten days without a finding and a new charge of violation of the facility's rules and regulations; state law also prohibits the withholding of mail privileges except for violation of mail rules; even when an inmate is transferred to disciplinary segregation, the transfer is not onerous; as a practical matter, such disciplinary segregation transfers the inmate to a disciplinary cell which is exactly the same as a regular housing cell and he loses visiting privileges and an opportunity to purchase items from the store; and he is permitted to retain legal materials.

#### XXI. Classification.

##### A. No Admitted Facts.

##### B. Plaintiffs' Contentions of Fact.

1. Whether although there are considerable differences between living conditions and privileges available to prisoners in different parts of the Jail and there are enormous

differences in the propensity for assaults and escapes posed by prisoners within the Jail, defendants make little or no attempt to classify prisoners; let alone classify prisoners in a manner that accords with due process of law.

2. Whether as a result of defendants' failure to classify, pretrial prisoners are all treated as though they pose serious dangers to Jail security, and the general pretrial prisoner population is exposed to assault and bullying at the hands of the more violent of their number.

C. Defendants' Contentions of Fact.

1. Whether as defendants contend: The Central Jail is presently implementing a new classification system which is the result of several years of study and planning; such system was presented to the Court in its initial planning stages in the case of *Dillard v. Pitchess*; under this classification system, it is intended and hoped that all inmates, regardless of their status as sentenced or pretrial inmates, will be classified as minimum, low moderate, moderate, high moderate or maximum security inmates; the classification is based upon an objective point system which gives weighted consideration to an inmate's current charge, criminal history, amount of bail, employment status at the time of arrest, residence within the County, family ties and other matters; when the system becomes fully operative, inmates will be so classified within a few days of their incarceration at Central Jail; and this system is to begin operating May 23, 1977.

2. Whether as defendants contend: Present indications are that when fully implemented, such classification system will permit the classification and housing of substantial numbers of the pretrial inmates as minimum security, and as high moderate security, as moderate security, and as high moderate security and only a small percentage as maximum

security; present data suggests that when implemented, such a classification system may ideally permit those pretrial inmates classified as minimum security to qualify for dormitory housing and permit travel about the jail on an unescorted basis; those inmates classified as low moderate to have relatively free movement in cell blocks, and open dayrooms, if possible; those inmates classified as high moderate to be housed in cell blocks with constant access to the freeway and scheduled dayroom time; and those inmates classified as maximum security to be housed in cell blocks with scheduled freeway time.

## XXII. Supervision of Prisoners by Jail Officers.

### A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail regarding Jail Officers' supervision of prisoners is as set forth in pre-marked Exhibits Z (pp. 1, 6), A (pp. 43, 51-53), and BM.

2. The stated written policy of the Sheriff's Department Custody Division and the Jail with regard to training of Jail Officers is as set forth in pre-marked Exhibits CD, BZ, B and A (pp. 20-21).

3. Most Sheriff's Academy graduates are placed in a jail facility as a first assignment.

### B. Plaintiffs' Contentions of Fact.

1. Whether defendants fail to provide adequate supervision of prisoners within housing areas; and consequently prisoners suffer beatings, assaults and threats from fellow prisoners, and commit suicides.

2. Whether the Jail's Officers are too inexperienced and inadequately trained to supervise the lives of prisoners; and the Sheriff's Department Academy curriculum heavily emphasizes police work and only superficially touches correctional work within a Jail environment.

XXIII. Brutality, Harassment and Abuse.

A. Admitted Facts.

1. The stated written policy of the Sheriff's Department Custody Division and the Jail regarding abuse of prisoners is as set forth in pre-marked Exhibits B (p. 7), CR, BU (pp. 1-2, 6, 8-9), BH, Z (pp. 3-5), A (pp. 14-19), AE, AF, AG and AK.

B. Plaintiffs' Contentions of Fact.

1. Whether the defendants subject prisoners to a reign of terror, the principal ingredients of which are a widespread pattern and practice of threats, unprovoked assaults and verbal abuse of prisoners by Jail Officers, a lack of due care for prisoner safety at the hands of other prisoners, inadequate officer supervision and a failure to vigorously classify prisoners.

XXIV. Other Issues — Scope of Bifurcation.

A. The Problem.

1. Plaintiffs wish to challenge three practices, travel to and from the Los Angeles County-U.S.C. Medical Center, housing conditions in the Jail's hospital and Jail Officers' alleged obstruction of prisoners' access to medical personnel.

2. Defendants contend that the Court's bifurcation of the trial of this case between medical and non-medical issues precludes plaintiffs from litigating said three issues because defendants' defense would require expensive medical testimony and proof.

B. Plaintiffs' Contentions of Fact.

1. Whether housing in the Jail's infirmary, described in Plaintiffs' Contentions of Fact X-B-3, *supra*, is punitive and inadequate.

2. Whether prisoners taken to the Los Angeles County U.S.C. Medical Center suffer hardships and deprivations

similar to those arising from court appearances — by being awakened early in the morning, spending long days in holding tanks at the Jail and the Medical Center, and frequently returning exhausted to the Jail in the evening.

3. Whether Jail Officers deny prisoners access to medical personnel during sick call and at other times.

C. Defendants' Contentions of Fact.

1. Defendants reserve additional legal or factual contentions regarding the proper scope of the bifurcation and the trial of said three issues for the Pretrial Conference.

XXV. Comparison to Other Correctional Facilities.

A. No Admitted Facts.

B. Plaintiffs' Contentions of Fact.

1. Whether the policies, practices, and conditions which the defendants inflict on pretrial detainees are incredibly egregious in view of the fact that convicted prisoners in the Jail itself, in other Los Angeles County jail facilities, and in California state and federal prisons are treated considerably better than the Jail's pretrial prisoners; although the lives of convicted prisoners are far from idyllic, convicts do not face the same oppressive confinement and boredom experienced by the Jail's pretrial detainees; and convicts generally live in superior housing and have daily opportunity to exercise, recreate, entertain themselves indoors and outdoors; and almost universally convicts are permitted to have physical contact with their visitors.

XXVI. Exhibits.

A. Plaintiffs.

Plaintiffs' present list of exhibits, excluding rebuttal and impeachment exhibits, is attached hereto as Schedule B.



**B. Defendants.**

Defendants' present list of exhibits, excluding rebuttal and impeachment exhibits, is attached hereto as Schedule C.

**C. Exchange of Exhibits.**

1. All exhibits known to the parties have been exchanged or will be exchanged as soon as is practicable and not later than ten (10) days before trial without good cause.

2. The parties will disclose to each other rebuttal and impeachment exhibits, including those discovered during trial, as soon as is practicable.

3. The parties will file a statement of their respective positions on the admissibility of the other side's exhibits ten (10) days before trial or ten (10) days after receipt of copies of such exhibits whichever is later.

**XXVII. Contentions of Law.**

**A. Jurisdiction.**

The parties stipulate that jurisdiction is conferred upon this Court by 28 U.S.C. §1343 providing jurisdiction in District Courts over claims for redress of civil liberties arising under 42 U.S.C. §1983.

**B. All Other Contentions of Law.**

The parties' remaining extensive and voluminous contentions of law are set forth in their respective Memoranda of Contentions of Fact and Law, which, for purposes of convenience, are incorporated hereby by reference as though fully set forth.

The foregoing admissions having been made by the parties, and the parties having specified the foregoing issues of fact and law remaining to be litigated, this order shall supplement the pleadings and govern the course of the trial of this cause, unless modified to prevent manifest injustice.

DATED: June 27, 1977.

/s/ William P. Gray  
WILLIAM P. GRAY  
DISTRICT COURT JUDGE

APPROVED AS TO FORM AND CONTENT:

/s/ Terry Smerling  
TERRY SMERLING

Attorney for Plaintiffs

DATED: June 13, 1977

/s/ Frederick R. Bennett  
FREDERICK R. BENNETT

Attorney for Defendants

DATED: June 13, 1977.

(Schedule A, listing all jail cells by number, size, and location; Schedule B, Plaintiffs' Exhibit List; and Schedule C, Defendants' Exhibit List have been omitted from the Pretrial Conference Order in part because of difficulty in printing Schedule A, which is a handwritten ledger reduced in size, and Schedules B and C do not accurately reflect the exhibits at trial. All three schedules are set forth at pages 447 through 459 of the Clerks Record in the underlying appeal, USCA Docket No. 79-3061).

**Stipulation.**

United States District Court, Central District of California.  
Dennis Rutherford, et al., Plaintiff, vs. Peter J. Pitchess,  
et al., Defendants. No. CV 75-4111 WPG.

Filed: July 25, 1977.

In order to minimize the necessary trial time, the parties, through their respective counsel, the undersigned, stipulate as follows:

1. The affidavits submitted at the hearing on the preliminary injunction may be admitted into evidence as the direct testimony of the affiant in lieu of oral direct testimony; provided, however, that any party may, if they desire, call such affiant and cross-examine such affiant as to the statements contained in the affidavit, or may call such affiant and question him orally as to any matter relevant to the action and otherwise admissible.

2. Should any party request to so examine any such affiant orally and such person not be available or reasonably capable of being brought to court for such examination, such affidavit may not be admitted into evidence in lieu of oral direct testimony.

DATED: 7/19/77

JOHN H. LARSON, County Counsel

By /s/ Frederick R. Bennett

FREDERICK R. BENNETT

Deputy County Counsel

Attorneys for Defendant

DATED: 7/20/77

/s/ Terry Smerling

TERRY SMERLING

Attorney for Plaintiffs

**IT IS SO ORDERED:**

**DATED: 7/25/77**

**/s/ William P. Gray**

**U. S. District Court Judge**

**Judgment Reaffirming Judgment Entered  
February 15, 1979.**

United States District Court, Central District of California.

Dennis Rutherford, Harold Taylor and Richard Orr, et al., Plaintiffs, vs. Peter J. Pitchess, et al., Defendants. Case No. CV 75-4111-WPG.

Filed: May 18, 1981.

On February 15, 1979, this court, after a trial of the class action here concerned, entered a judgment requiring several changes in practices and conditions of confinement in the Los Angeles County Central Jail (the jail). Three of these requirements were appealed. On August 8, 1980, the Court of Appeals remanded the case to this court for reconsideration of the three challenged orders in light of *Bell v. Wolfish*, 441 U.S. 520 (1979), which was decided after those orders were rendered.

The three orders here concerned read as follows:

"2.(b) *Contact Visits*. Commencing not more than ninety days following the date of this order, the defendants will make available a contact visit once each week to each pre-trial detainee that has been held in the jail for one month or more, and concerning whom there is no indication of drug or escape propensities; provided, however, that no more than fifteen hundred such visits need be allowed in any one week. In the event that the number of requested visits in any week exceeds fifteen hundred, or such higher number as the Sheriff voluntarily undertakes to accommodate, a reasonable system of rotation or other priorities may be maintained. The lengths of such visits shall remain in the discretion of the Sheriff."

"5. *Restoration Of Windows*. Within ninety days following the filing of this order, transparent windows shall be restored in each portion of the jail from which

they previously have been removed.”

“8. *Cell Searches.* Inmates that are in the general area when a ‘shakedown’ inspection of their cells is undertaken shall be permitted to be sufficiently proximate to their respective cells that they may observe the process and respond to such questions or make such requests as circumstances may indicate.”

For reasons set forth in the Memorandum of Decision filed contemporaneously herewith, the previously entered judgment is hereby reaffirmed.

DATED: May 18, 1981.

[Stamp] William P. Gray  
WILLIAM P. GRAY  
United States District Judge